



AGENDA

Wednesday, October 5, 2022: 6:00 PM

Town Council Agenda Meeting

**C. Michael Haney Community Room: Southern Pines Police Department
450 W. Pennsylvania Ave**

1. CALL TO ORDER

2. TOWN MANAGER'S COMMENTS

3. ACTION ITEMS

4. REVIEW PUBLIC HEARING APPLICATIONS FOR UPCOMING BUSINESS MEETING AGENDA

a. ZE-01-22: Zoning Exemption Hearing for Arts Council of Moore County Mural Program

The Arts Council of Moore County (ACMC) requests an exemption from the UDO in order to install an artistic mural on private property as part of an art program sponsored by the ACMC. The UDO has a very broad definition of a sign which includes any depiction that is visible off-site and that attracts attention. The proposed mural meets the technical definition of a sign, so the ACMC an exemption to the sign code in order to install the mural.

b. AX-04-22: Annexation of 2.32 acres at corner of S. Carlisle St. and Brucewood Rd.

S & S Partners, LLP and Morganton Park North Master Association, Inc. request voluntary annexation of contiguous parcels. The 2.32 acres are located at the intersection of S. Carlisle St. and Brucewood Road, outside the corporate limits of Southern Pines.

5. REVIEW PROPOSED ACTION ITEMS FOR UPCOMING BUSINESS MEETING AGENDA

a. AR-12-22: Waterworks Plus

PTAH, LLC is applying for an Architectural Compliance Permit for a second commercial building at the Waterworks Planned Development located at 1605 Central Drive, across the road from the entrance to Reservoir Park. The proposed 11,000 square foot building will be located behind the existing building that was recently approved for a significant expansion.

b. RA-03-22: Resolution of Intent to Vacate Right of Way

Bantembo, LLC requests the abandonment of 867.92 square feet of town right-of-way located at the corner of W. Wisconsin Ave. and S. Bennett St. The property is adjacent to the parcel currently owned by Bantembo, LLC and identified as PIN 858100075283 (PARID 20190227).

c. WP-02-22: Watershed Protection Permit for Bantembo, LLC

Bantembo, LLC requests 1.22 acres of Watershed Exemption Allocation in order to develop the Townhomes on Bennett project with up to 70% built-upon area. The project is located at S. Bennett St. and W. Wisconsin Ave. and was approved by the Town Council on January 11, 2022 for 20 attached townhome units.

d. Request for Relief from §50.035 of the Town Code of Ordinances: McNeil Rd.

Mr. Sean Butler requests relief from §50.035 of the Town Code of Ordinances that would otherwise require the extension of about 2,300 LF of water line to serve 5 new lots along McNeil Rd.

e. Board Appointments: Historic District Commission

The Town has received two applications to fill two open seats on the Historic District Commission. Staff recommends confirming these appointees at the October 24th work session, so the current members of the HDC can complete their review of a pending project.

f. Budget Amendments

Council discussion to finalize the projects and allocations related to revenue replacement, for a budget amendment to be considered on the October 11th agenda. Staff also recommends amending the FY 22-23 General Fund budget related to the new contract for legal services.

6. REVIEW PROPOSED CONSENT AGENDA FOR BUSINESS MEETING

a. Authorize the Mayor to Execute a Waterline Easement at the Moore County Airport

The airport intends to extend new waterlines to provide water service and fire protection for their hangar expansion project. A draft of the easement is included with the packet. The Airport Authority has approved the language as shown and has forwarded it to the County Commissioners for their consent. If Council approves the easement as written, staff asks that Council authorize the Mayor to execute the easement after approval by the County Commissioners.

b. Board Appointment: Planning Board

Kim Wade's term on the Planning Board has recently expired. She is interested in serving a second term.

c. Code of Ordinances Administrative Updates: Library Fee Schedule

As part of the administrative updates to the Town's Code of Ordinances, staff has reviewed the Library's fee schedule, located in Chapter 98. Staff will review the recommended revisions.

d. Code of Ordinances Administrative Updates: Public Works Fee Schedule

As part of the administrative updates to the Town's Code of Ordinances, staff has reviewed the Public Works fee schedule, located in Chapter 50. This is not a schedule that is generally assessed to the general public, but rather when the department has to perform billable work and the Town's expenses should be recouped. Staff will share some approaches with how an update could be addressed for this schedule.

e. Approve Town Council Minutes

Draft minutes for Council approval.

i. February 28, 2022 Closed Session Minutes

ii. June 27, 2022 Closed Session Minutes

iii. August 3, 2022 Closed Session Minutes

7. ADJOURNMENT

Meetings/work sessions of the Southern Pines Town Council are now available on the Town's [YouTube channel](#). Video of the Town Council meetings will be live streamed on the channel for viewing either during the meetings or after they have concluded. Please note, the video is provided only for the purposes of viewing the meetings; public comments or questions are not accepted via the live stream. To receive notifications when new content is published, please "subscribe" to the Town's channel at <https://bit.ly/3hXx2Qk>

Agenda Item

To: Reagan Parsons, Town Manager

From: BJ Grieve, Planning Director

Subject: ZE-01-22: Zoning Exemption Request for the Arts Council of Moore County Mural Program

Date: October 11, 2022

I. SUMMARY OF REQUEST:

Mr. Chris Dunn, the Executive Director of the Arts Council of Moore County (ACMC), is requesting an exemption from the Town of Southern Pines Unified Development Ordinance (UDO), per §2.11. The purpose of the request is to allow the installation of a mural on the southwest wall of an existing commercial building located at 311 SE Broad Street. The proposed mural is part of a public art program sponsored by the ACMC. The property on which the existing commercial building is located is identified as PIN 858105270673 (PARID 00034263). The property owner is listed as Harbour Maytag in the Moore County tax record.

II. STAFF REVIEW:

A. Mural Discussion History:

At the July 27th, 2020 Town Council Work Session, Mr. Steve Harbour presented a concept to the Town Council for painting a mural on the side of his existing commercial building at 305-313 SE Broad Street. Mr. Harbour discussed a desire to use the blank side of his building to “brighten everyone’s day” and create a mural that “both celebrates Southern Pines and invites people to interact with it.” Planning staff presented the UDO definition of a sign and raised concerns with establishing a precedent of privately-initiated artistic murals being abused as signs to attract attention to a building, as well as the potential for controversy and legal challenges over what constitutes art and what constitutes a sign. Town Council discussed the issue.

Town Council generally supported the concept of murals for purposes of public art and creating additional traffic for businesses. However, some members of the council raised concerns with the challenges of distinguishing between art and signage, creating a precedent whereby objectionable murals may begin to appear on buildings all over town, and taking the time to ensure art projects in Southern Pines are equitable, inclusive, and celebrate diversity. A majority of the Town Council opposed Mr. Harbour immediately moving forward with his personal mural project, but asked town staff to explore the issue further. The Town Manager further suggested exploring a public art approach that would work in conjunction with the input of existing community groups and committees.

On August 19th, 2020 Mr. Harbour emailed members of the Town Council to follow-up on his discussion at the July 27th, 2020 Work Session. He presented information from The Pilot newspaper regarding public reaction to his mural concept and asked for additional consideration by the Town Council. At around the same time, planning staff was corresponding with Chris Dunn, Executive Director of the Arts Council of Moore County (ACMC) to explore the feasibility of a “Southern Pines Mural Project.” Planning staff and Mr. Dunn researched similar public art projects in other communities and found a model from Belleville, IL. Planning staff and Mr. Dunn worked together to contact a variety of knowledgeable sources regarding sources of funding, best practices and guidelines for successful public art projects, and economic benefits of public art projects. Finally, planning staff and Mr. Dunn contacted three local community groups (West Southern Pines Civic Club, Southern Pines Business Association, and the Southern Pines Appearance Commission) to present and gauge support for the concept of a mural project and corresponded with Mr. Steve Harbour regarding the concept for a mural project.

On September 28th, 2020, Planning staff and Messrs. Dunn and Harbour presented a public art project concept that was the result of the aforementioned research and coordination. The Arts Council asked the Town Council for support of the project and a commitment of \$2,500 per mural as “seed money” to help ACMC fundraise for the remaining costs of the projects. This request was denied by the Town Council. Members of Town Council expressed concerns with available resources for non-essential projects, ownership of the murals, continued maintenance of the murals, and possible damage to murals over time.

Following the September 28th, 2020 meeting with the Town Council, the ACMC and representatives from the aforementioned community groups worked to significantly revise the scope of the project. The project is now a public art program sponsored and administered privately by the Arts Council of Moore County. The ACMC’s mural program involves one privately-funded mural at a time. Program guidelines have been established by the Arts Council and vetted by multiple interested parties. A Southern Pines Mural Committee consisting of representatives from the Appearance Commission, the West Southern Pines Civic Club, the Southern Pines Business Association and the ACMC was created to oversee the program and review applications for murals and mural locations. The program includes an opportunity for Town Council to see and approve the mural and mural location as part of a required zoning exemption hearing, per UDO §2.11. The ACMC’s new mural program was presented to the Town Council at the January 24th, 2022 Work Session and received enthusiastic support from the Town Council.¹

B. Current Proposal:

Mr. Chris Dunn is now requesting Town Council approval of a zoning exemption, per UDO §2.11, to allow the installation of the first mural under the ACMC’s mural program. Again, a zoning exemption is required because a large artistic mural on the

¹ [January 24, 2022 Work Session \(amlegal.com\)](https://www.amlegal.com)

side of a commercial structure that is visible to persons not located on the property technically meets the UDO definition of a sign and therefore is not compliant with the sign code based on size and location of the sign. UDO §2.11 allows the Town Council to grant an exemption to zoning when “the exemption is in the public interest and is not contrary to health, safety, and welfare considerations.” Attached to this report is a letter from Chris Dunn and ACMC describing the basis for their request for a zoning exemption and containing a depiction of the proposed mural and information about the property owner and artist. The ACMC is not asking for any direct funding from the Town of Southern Pines but is requesting use of the Town’s scissor lift as well as barricades and traffic cones for safety purposes.

C. Staff Comments:

Planning staff supports the requested exemption. Multiple studies have demonstrated that public art, combined with infrastructure, architecture and public spaces is critical to creating memorable and special places that community members and visitors cherish.² In 2018, the American Planning Association published a Planner’s Advisory Service (PAS) Quicknotes paper describing the many benefits of public art to placemaking as well as to “economic growth and sustainability, cultural identity, social cohesion and public health.” A copy of this Quicknotes paper is attached to this staff report. The ACMC has a robust set of guidelines for their mural program that are very likely to prevent the program being misused as a commercial signage loophole. The ACMC’s mural program guidelines do not allow murals that are clearly advertising to be part of their privately sponsored and administered mural program. No murals will be proposed in the historic district.

Pursuant to UDO §2.11(C), the Town Council may grant an exemption in full or in part and, if appropriate, may attach conditions relating to the exemption. A zoning exemption is granted by written order of the Town Council. Planning staff has prepared a draft Written Order approving the exemption, with conditions related to following the Arts Council of Moore County’s written Mural Program Guidelines, as provided to the Town of Southern Pines.

III. ATTACHMENTS:

1. Arts Council of Moore County Mural Program Guidelines.
2. Letter from Chris Dunn, Executive Director of the Arts Council of Moore County, requesting approval of a zoning exemption for installation of a mural.
3. American Planning Association – Planner’s Advisory Service (PAS) Quicknotes (2018)

² [Urban Culture Institute Blog - Urban Culture Institute](#)

IV. TOWN COUNCIL ACTION:

The Town Council shall vote on whether to approve or deny the requested zoning exemption.

I move to approve by written order the requested zoning exemption from UDO §4.6 for installation of a mural as described and depicted in the letter from Mr. Chris Dunn of the Arts Council of Moore County dated September 6, 2022. The proposed mural is part of a public art program sponsored and administered privately by a local community nonprofit with a mission “to inspire and strengthen our community through the arts” and is in the public interest for reasons set forth in staff report ZE-01-22. The proposed mural, and the location of the proposed mural, is found by the Town Council to not be contrary to health, safety and welfare considerations because the mural program guidelines put in place by the APMC are adequate to ensure that artistic murals do not become a “workaround” for signage that may be contrary to the purpose of the Southern Pines Sign Code as described in UDO §4.6.1.



ARTS COUNCIL Mural Program Request for Proposal (RFP)

To promote the charm, history, livability and spirit of Moore County, North Carolina, the Arts Council of Moore County (ACMC) offers the following guidelines for its Mural Program. The program seeks Moore County property owners who wish to install a mural somewhere on their property. The property owner may have an artist they wish to use, or ACMC can hold an open call to artists. The goal of this public arts program is to use the arts to attract more attention and economic activity to areas that will positively impact the entire county.

The program will be directed by ACMC in partnership with the property owner(s). Each mural project must meet the guidelines below and be approved by a mural committee consisting of representatives from ACMC, property owner(s), and other interested parties from the area where the mural is to be installed. This program will also seek guidance and support from the North Carolina Arts Council and other mural experts.

MOORE COUNTY PROFILE: Moore County is a region of scenic beauty and among the most biologically diverse places on earth. Early settlers were mainly subsistence farmers whose principal industry was naval stores (turpentine, tar, pitch, & rosin). Today, we are best known for our world-class equestrian communities, championship golf, vibrant cultural scene with deep-rooted music, literature, visual arts, and pottery traditions, and as a great place to grow a family. Our wide range of sports offerings, fine hotels, locally-owned shops, and thriving restaurants add up to a very special place, enjoyed by residents and visitors alike.

ELIGIBILITY: The Arts Council Mural Program is open to professional artists (or teams of collaborative artists) that are born or reside in North Carolina, ages 18 or older. Other teams, such as groups containing children or amateur artists, may submit, provided an adult, professional artist executes the mural. Applicants will not be discriminated on the basis of any class or disability.

MURAL GUIDELINES: Based on the artist's vision, property owner's input and mural location, a successful mural proposal will ideally meet the following guidelines:

- Artistic design & application is of the highest level and completely original by the submitting artist/art team.
- Broad/universal appeal to locals and visitors, which may be uplifting, playful, inspiring, colorful, thoughtful, or historical in nature. Be creative!
- Compliments the character or history of the mural location and surrounding area.
- Engages and encourages photographic and/or opportunities for pedestrian interaction.
- Acceptable for public viewing by all ages.
- Avoids overt political, religious or social statements and/or influences.
- Contains the names of the artist/art team and sponsors, as requested.
- Feasible budget and timeline.
- Avoids subject matter that could be construed as advertising or contains direct or indirect promotion related solely to the economic interests of any business. Murals that advertise a business, agency, service or product in any way will not be approved and will be directed to the entity that regulates signage in the mural location.

QUESTIONS: Please contact Chris Dunn at 910-692-ARTS (2787) or acmc@mooreart.org.

APPLICATION PROCESS:

Whether a mural proposal is initiated by a property owner who has already chosen an artist or the property owner requests help finding an artist, each artist/artist team must submit all of the following items for review by the mural committee.

REQUIRED ITEMS FOR EACH MURAL PROPOSAL YOU SUBMIT

(You may submit more than one):

1. Letter of Interest addressing: A) Mural concept with description, materials & their durability; B) How your proposed mural fits within the architecture & the function of the space; C) How your concept responds to mural guidelines & property owner's input; D) Detailed wall preparation plan; E) Detailed mural protection & maintenance plan. (3 pages, max.)
2. Full color image illustrating your proposed mural design. If awarded a contract, you must submit a scaled (approx. 1 inch = 1 foot) rendering in the media of your choice that is suitable for framing. Rendering will become the property of ACMC.
3. Itemized budget to include artist fees, materials, installation costs (i.e. lighting, equipment rentals, etc.), liability insurance, travel expenses, and any other costs. (1 page, max.)
4. Timeline of project using the mural timeline below. (1 page, max.)
5. Plans for community engagement activities, if any. (1 page, max.)

REQUIRED ITEMS FROM EACH ARTIST/ART TEAM:

1. Résumé with contact information (phone, email & mailing address). Applicant can be one artist or a team of collaborative artists (including children). If possible, include experience working on comparable mural projects of size and scope, and any experience working with government agencies, arts organizations, etc. (2 pages, max.)
2. Examples of past work to include 5-10 digital images or web links. For each example, include title, date, size, budget, materials used, and location (if public art).
3. Contact information for 2-3 professional references. (1 page, max.)

All proposals must be submitted as a complete package in one of the following ways:

U.S. Mail:

Arts Council of Moore County
Attn: Chris Dunn
P.O. Box 405
Southern Pines, NC 28388

Hand Delivery:

Arts Council of Moore County
Attn: Chris Dunn
482 E. Connecticut Avenue
Southern Pines, NC

Email:

acmc@mooreart.org
(Please include all materials in one PDF)

SELECTION PROCESS:

All proposals will be reviewed by the mural committee to determine if the mural is appropriate to the location, architecture and social context. The committee has full discretion to accept, decline or request changes to the mural proposal. If required, a successful proposal will then be submitted to the entity that regulates signage in the jurisdiction of the mural location.

QUESTIONS:

Please contact Chris Dunn at 910-692-ARTS (2787) or acmc@mooreart.org.



Southern Pines Town Council
801 SE Service Rd.
Southern Pines, NC 28387

September 6, 2022

Dear Town Council Members,

On behalf of the Arts Council of Moore County, I am excited to present the first project from our mural program for installation on the southwest wall at Harbour Place (311 SE Broad Street, Southern Pines). The mural was created by the artist (Nick Napoletano), approved by the property owners (Harbour family), and vetted by the Southern Pines Mural Committee, which includes representatives from the S.P. Appearance Commission, West S.P. Civic Club, S.P. Business Association, and the Arts Council.

For this mural, we respectfully request an exemption from the Southern Pines Sign Code pursuant to the following exemption criteria in the Southern Pines UDO:

- §2.11 (A) (1) "The exemption is in the public interest and is not contrary to health, safety, and welfare considerations"
- §4.6.15 (G) "Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts or lights"

We also believe our exemption request is justified as the mural fulfills the intentions of the Southern Pines Sign Code as found in UDO §4.6.1, including:

- "(B) Maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic Development and growth"
- "(O) Preserve, conserve, protect and enhance the aesthetic quality and scenic beauty of all districts of the Town"
- "(Q) Protect property values by precluding, to the maximum extent possible, Sign types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness or movement"
- "(R) Protect property values by ensuring that Sign types, as well as the number of Signs, are in harmony with buildings, neighborhoods and conforming Signs in the area"

We are not requesting Town funds to for this mural, as the mural costs are being provided by the property owners and the Arts Council. However, we do request use of the Town's scissors lift, a few barricades and/or traffic cones for the artist's use during the mural's 2-week installation.

From what started as a simple mural request over three years ago, we are excited to move forward on this project. With your support, we look forward to mural projects that will enhance Southern Pines' charm, beauty, and economy well into the future.

For the Arts,

A handwritten signature in cursive script that reads "Chris Dunn".

Chris Dunn
Executive Director

Enclosures

Arts Council Mural Program

Mural Project: Harbour Place in Southern Pines

Artist: Nick Napoletano of Charlotte, NC - www.NapoletanoArt.com
Location: Southwest facing wall at 311 SE Broad Street, Southern Pines, NC
Dimensions: 40 ft. wide by 24 ft. high. (960 square feet)
Surface: Painted cinder block
Installation Date: Determined after sign exemption vote; Total installation time approximately two weeks
Artist Warranty: One year

PLEASE NOTE The picture below is the preliminary rendition of the Nick's vision for the mural and NOT the final mural to be installed. Starting with the property owner's request, Nick digitally created this mural concept for review, revisions, and approval. Nick will refine his vision as he paints the mural onsite, thus removing any stock image logos and digital edits. To give you a better sense of Nick's quality of work, check out the samples on the next page and visit his website, www.NapaletanoArt.com.



Artist's description of this mural...

"The piece is playing off the concept of the passage of time and the importance of staying in the present moment. While it was inspired by the first stop motion imagery of a horse in motion by Eadweard Muybridge in the late 1800s, it's also a nod to the critical role horses have played in Southern Pines, from the Native Americans to the modern residents."

~ Nick Napoletano

Before:

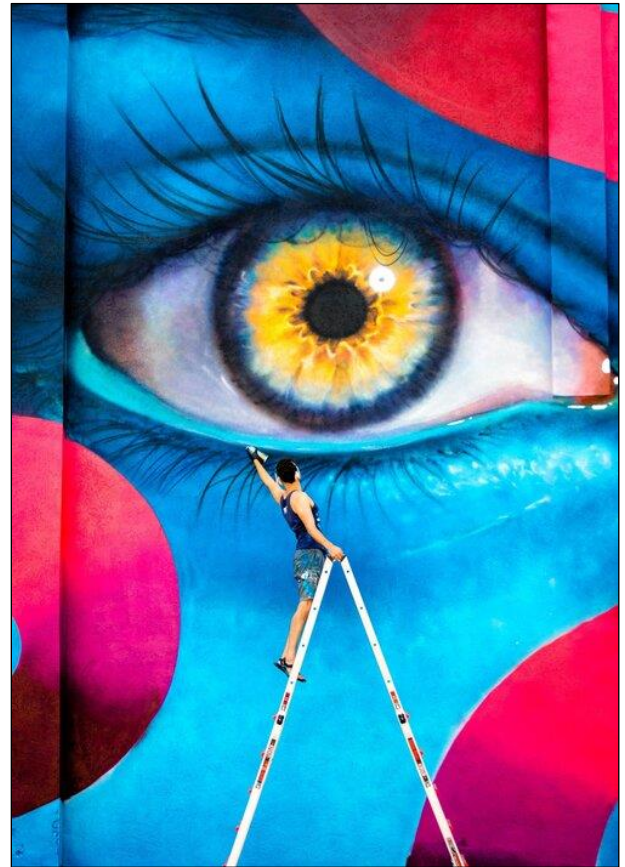


View from SE Broad St.

NICK NAPOLETANO

Nick Napoletano (b. 1990) is a painter, muralist, and designer known for hyperrealist works brimming with allegory and symbolism. The rich color and idealized figures in his compositions are stylistically in line with Mannerism and High Renaissance.

After earning his BFA at the University of Hartford, Napoletano studied under renowned egg tempera painter Fred Wessel, an experience that refined his modern take on allegorical realism. He uses the human figure as "a vehicle to explore and document various facets of the human condition as they relate to both the individual and the universal whole." Community growth and dialogue are a main component of Napoletano's agenda; his installations are meant to function as a mirror, identifying a truth about the community, while paving the way for positive change.



Private collectors and public institutions have commissioned Napoletano; his work can be found in galleries and museums internationally, including the collections of Amway and the New Britain Museum of American Art. Nick recently exhibited at Jerald Melberg Gallery and the Mint Museum and is currently installing a series of exterior murals in the city of Charlotte, North Carolina.



Learn more at www.NapoletanoArt.com.

QUICKNOTES

Public Art and Planning

Public art is any work of art situated in or visible from a publicly accessible space—whether the artwork is publicly or privately funded, or the space is publicly or privately owned. Public art includes artistic objects, experiences, and processes that consider the place and time in which they are situated, as well as their audience and cultural context. It consists of visual art, such as statues and murals, performance art, such as musical and theatrical events, and other creative practices that spur community dialogue, connect communities and issues, generate economic activity, or humanize the built environment.

Both public art and planning play an important role in determining the look and feel of the built environment by creating or enhancing a sense of place. Artist-led community planning processes can also incorporate artistic activities or components as an approach to involving a greater number and variety of stakeholders, surfacing unheard voices, and collecting valuable input.

PUBLIC ART IN THE BUILT ENVIRONMENT

Public art has been a feature of the built environment for as long as people have planned cities, from the pyramids and sculptures of the Bronze Age to the interactive pieces of today. Early forms of public art, such as public monuments, memorials, and murals, remain popular on public or publicly accessible properties such as shopping centers. These locations can also host other types of art that incorporate landscaping, light, water, sound, performance, or social engagement activities.

Hospitals have embraced public art for its demonstrated mental and physical health benefits, including decreased stress, a positive impact on mood, and promoting positive health behaviors.

Parks are a natural location for siting many types of public art as they offer an expansive, open setting as well as a natural community gathering space. The arts can play an important role in reinventing or revitalizing a park through the addition of performance spaces, serving as festival sites, hosting sculpture trails, and incorporating artist-designed benches, amenities, and other visual art pieces. Art along walking and biking trails can benefit community health by creating a sense of curiosity in their users, encouraging people to go farther to see the next piece of art.

The public right-of-way offers another opportunity for public art. Benches, waste receptacles, lighting, transit stops, signage, crosswalks, and other streetscape elements can double as public art pieces that integrate local cultural expression into people's everyday lives. Rather than choosing these functional elements from a catalog, an artist can be hired to create something special and reflective of the community.

PUBLIC ART IN PLANNING PRACTICE

There are many ways to incorporate public art into routine planning practice to articulate community identity and engage the public. A community's comprehensive plan may include a public art chapter or element, or it may recommend public art as a strategy to foster a livable built environment, healthy community, inclusive government, and equitable development.

As part of an economic development strategy, public art can be used to create wayfinding to promote and direct customers to local businesses. Permanent artworks, like sculptures and murals, can draw tourists and new customers to an area. Likewise, freely accessible performance art, festivals, and spectacles draw visitors and attention to a community. Fireworks, for example, are an effective form of public art as pyrotechnics typically attract a crowd.

Photo by Carolyn Torma (CC BY-NC 4.0).
Copyright 2015 American Planning Association.



*Alleyway art in the Pullman neighborhood
of Chicago.*



American Planning Association

Making Great Communities Happen

Public art can play an important role in the community engagement and public participation elements of the planning process, using creative, unconventional engagement and feedback techniques. Artistic methods such as drawing, sculpting, and modeling can empower and engage citizens from a wide variety of racial, ethnic, and social backgrounds who might not otherwise feel comfortable speaking up in a public meeting. Artists can create visual aids and storytelling within a visioning workshop to illustrate potential alternatives in a way that is more accessible to some audiences than a written report.

ADMINISTERING PUBLIC ART PROGRAMS

The design of a public art program should include basic elements that serve the purpose of the program, including management, governance, funding sources and disbursement mechanisms, and siting and selection criteria. Well-balanced public art programs should have policies and procedures that accommodate art initiated by the commissioning entity, as well as projects proposed by artists, the community, or independent organizations. A program should also clarify the roles and responsibilities of potential partners and stakeholders. Funding for public art programs often comes from arts-specific funding sources, such as percent-for-art programs, or budget line items.

Percent-for-art programs levy a fee, typically a percentage (such as one-half or one percent of the project's total construction cost) for the purpose of acquiring and installing public art. The percentage may apply to the construction costs of public buildings, or it may be applied to all construction within a jurisdiction (typically above a certain dollar threshold). Art installations funded through such programs may not necessarily be located at the site of a given project. Some cities and counties may allow a property owner to choose and install publicly accessible art in lieu of making a monetary contribution to the fund. In addition to municipal and county programs, most U.S. states administer percent-for-art programs, as does the federal government through the General Services Administration's Art in Architecture Program.

Alternately, communities may choose to fund public art through their budget process by allocating general funds to support projects throughout a jurisdiction. Others may use special assessments or a value-capture mechanism, such as tax increment financing, to target public art installations within a specific geographic area. Cities and counties may also include public art within private development agreements as a required community benefit or amenity.

Public art programs may also use strategies that require artist participation in public projects. One example of this is San Diego's policy to involve artists in the design phase of city capital improvement projects. Artist-in-residence programs are another way to incorporate art in public processes that can help cities and counties incorporate art and artistic approaches into their community engagement and outreach efforts, as well as their construction projects.

CONCLUSION

Public art can be an engaging tool for creating a sense of place that reflects the character, history, and values of a community. Communities can use public art to further economic growth and sustainability, cultural identity, social cohesion, and public health. There are numerous ways to incorporate art into the built environment and everyday planning processes in a way that engages diverse stakeholders. Communities interested in developing a public art program can find extensive online guidance to help them design an effective public art strategy that meets their unique goals and objectives.

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FURTHER READING

1. Published by the American Planning Association

American Planning Association. 2011. *Arts and Culture Briefing Papers*. Available at planning.org/research/arts.

Vazquez, Leonardo. 2016. "Creative Placemaking." *PAS Memo*, November/December. Available at planning.org/pas/memo/2016/nov.

2. Other Resources

Americans for the Arts. 2018. "Public Art Resource Center." Available at <http://bit.ly/2BArEr>.

Becker, Jack. 2004. "Public Art: An Essential Component of Creating Communities." *Monograph*, March. Available at <http://bit.ly/2AIWYhM>.

Rose, Kalima, Milly Hawk Daniel, and Jeremy Liu. 2017. *Creating Change through Arts, Culture, and Equitable Development: A Policy and Practice Primer*. Oakland, Calif.: PolicyLink. Available at <http://bit.ly/2KBGZkn>.

Agenda Item

To: Reagan Parsons, Town Manager

From: B.J. Grieve, Planning Director
Cindy Williams, Planning Technician

Subject: AX-04-22: Hold a Public Hearing for Voluntary Annexation of a 2.32 Acre Parcel and a 50' Private Right of Way Contiguous to the Corporate Limits of the Town of Southern Pines; Petitioners: S & S Partners, LLP and Morganton Park North Master Association, Inc.

Date: October 11, 2022

I. SUMMARY OF APPLICATION REQUEST:

William Stewart, M.D., on behalf of S & S Partners, LLP, and Charles Gregg, on behalf of Morganton Park North Master Association, Inc., are requesting voluntary annexation of contiguous parcels that are currently outside of the corporate limits of the Town of Southern Pines. Per the Moore County tax records, the subject parcels are identified as PIN 857100496541 (PARID 20190014) and PIN 857100495394 (PARID 20190273).

II. PRIOR TOWN COUNCIL ACTION:

During the August 22, 2022 Town Council Work Session, the Town Council approved a *Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31*.

During the September 13, 2022 Town Council Regular Meeting, the Town Council approved a *Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31, As Amended*.

III. PROJECT INFORMATION:

A. Physical Addresses:

105 Pavilion Way
Southern Pines, NC 28387

Pavilion Way
Southern Pines, NC 28387

B. Property Owners/Applicants:

S & S Partners, LLP/William Stewart, M.D.
195 W. Illinois Avenue
Southern Pines, NC 28387

Morganton Park North Master Association, Inc./Charles Gregg
2 Regional Circle
Pinehurst, NC 28374

C. Property Identification & Parcel Identification Numbers:

PIN 857100496541; PARID 20190014

PIN 857100495394; PARID 20190273

D. Size of Property:

2.32 acres and 17,117 SF

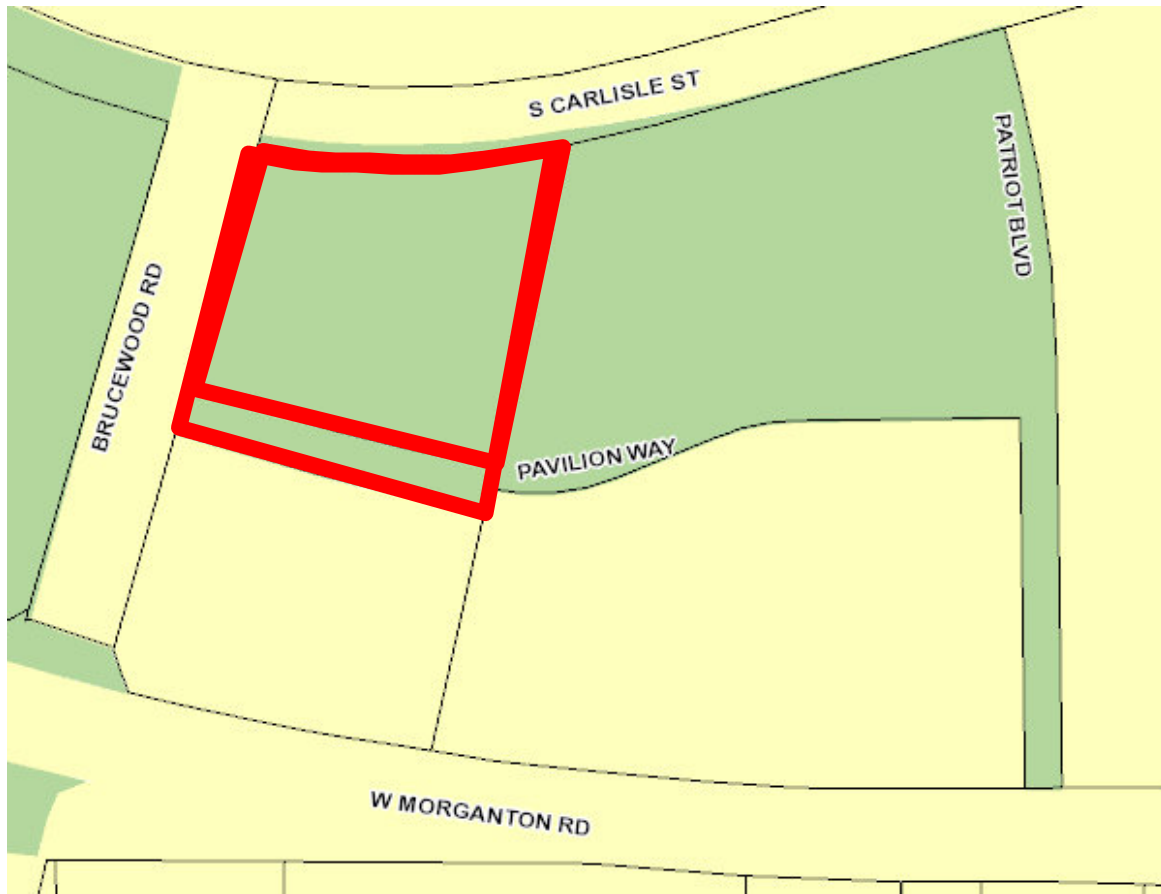
IV. STAFF COMMENTS:

- The applicants have each submitted an annexation petition accompanied by a map and a written metes and bounds description of the subject property.
- The written metes and bounds descriptions of the areas to be annexed have been approved by the Moore County Tax Mapper.
- The requests are voluntary requests for contiguous annexation as the adjacent properties are within the corporate limits of the Town of Southern Pines (see Figure 1).
- The subject properties are presently zoned PD (Planned Development). The adjacent properties are also zoned PD.
- During the August 22, 2022 Town Council Work Session, the Town Clerk was directed to investigate the sufficiency of the Petition for Voluntary Annexation of the subject properties.
- During the September 13, 2022 Town Council Regular Meeting, the Town Clerk approved a *Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31, As Amended*.
- The purpose of this agenda item is to hold a public hearing to consider the annexation request.
- **Comprehensive Long Range Plan Analysis:**
 - The subject properties are identified as “Traditional Mixed Use” on the Comprehensive Long Range Plan (CLRP) Future Land Use Map (see Figure 3). Per the CLRP 2015-2016 update:

“The Traditional Mixed Use category applies to those larger, mostly undeveloped parcels well-suited to mixing residential and non-residential uses in a manner similar to that found in downtown Southern Pines. This

designation applies to the Morganton Road area and to the Pine Needles area, identifying these as likely spots for mixed-use including an interconnected street network as found in traditional town development. No specific development intensity is implied by this designation. It simply indicates that such areas will be built to urban levels, will incorporate a variety of uses and will have a street network accommodating modes of travel beyond the automobile.”

Figure 1: Adjacent Property (Areas to be Annexed Outlined in Red)



Town of Southern Pines Corporate Limits

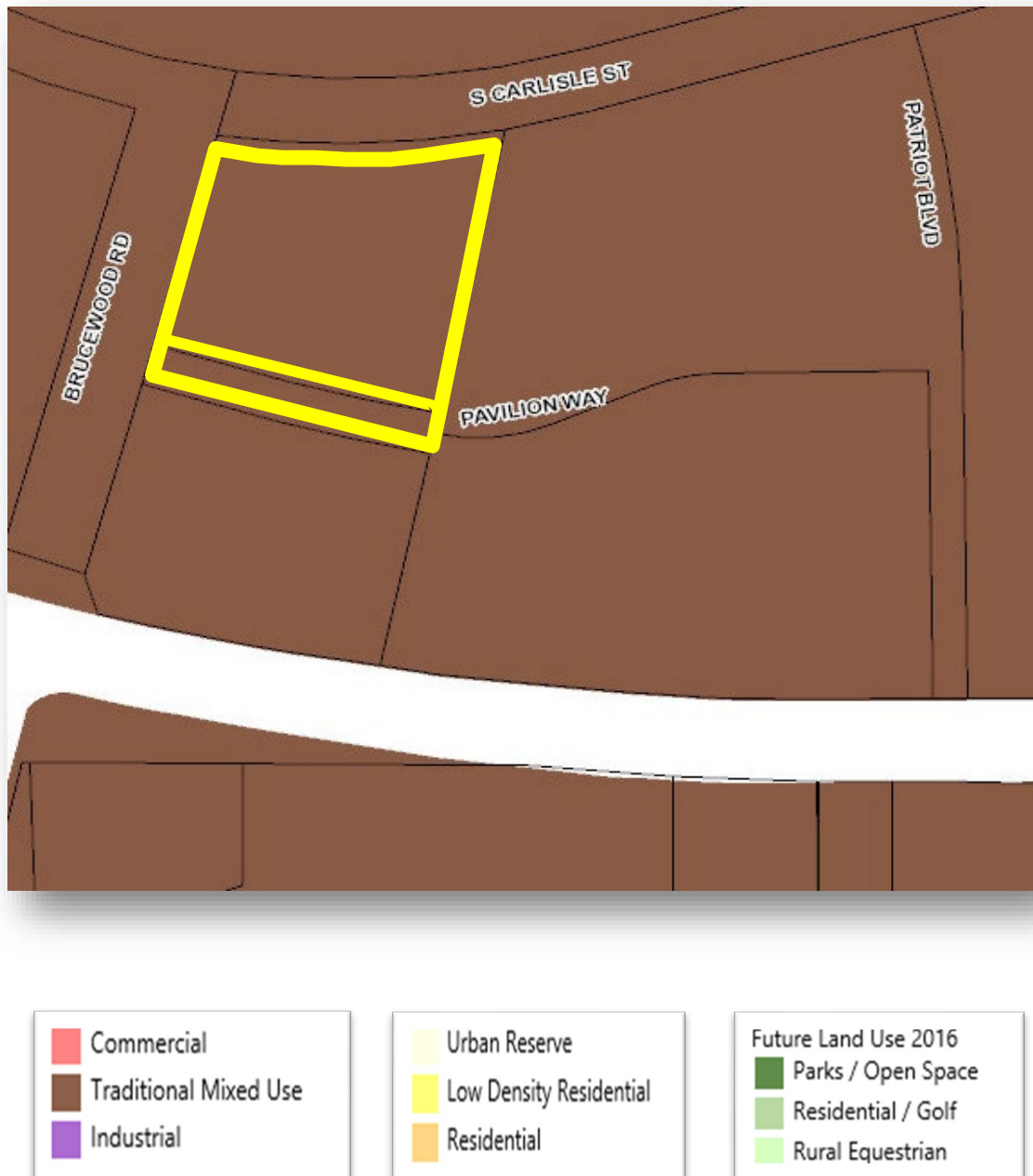


Town of Southern Pines ETJ

Figure 2: Zoning Map (Area to be Annexed Outlined in Blue)



Figure 3: CLRP Future Land Use Map (Area to be Annexed Outlined in Yellow)



V. ATTACHMENTS:

1. Petitions
2. Written metes and bounds descriptions
3. Surveys of subject properties
4. Resolution

VI. TOWN COUNCIL ACTION:

To either approve or deny the voluntary annexation, the Town Council may choose one of the following motions or any alternative they wish:

- 1) I move to adopt an Ordinance approving voluntary annexation request AX-04-22 for the properties as defined in the submitted written metes and bounds descriptions, and to have the Ordinance effective immediately.

-or-

- 2) I move to deny voluntary annexation request AX-04-22 for the properties as defined in the submitted metes and bounds descriptions.

PETITION FOR VOLUNTARY ANNEXATION

To the Town Council of the Town of Southern Pines, North Carolina:

1. I/We the undersigned owner(s) of real property respectfully request that the area described in the attached Exhibit A be annexed to the Town of Southern Pines.
2. The area to be annexed is **contiguous** to the Town of Southern Pines and the boundaries of such territory are described in the attached metes and bounds description, Exhibit A.
3. The area is identified as PIN: 857100496541; PARID: 20190014.

Property Owner(s):

Name: S & S PARTNERS,
L.L.P.

Signature: W. Stewart 8/2/2022

Address: 195 W ILLINOIS AVE

William H. STEWART, M.D.
General Partner

Southern Pines, NC 28387 - 5808

Name: _____

Signature: _____

Address: _____

Name: _____

Signature: _____

Address: _____

(Duplicate this form to add names, addresses and signatures of property owners, as necessary.)

7-28-21

EXHIBIT A

Metes and Bounds Description of Property/Properties Petitioning for Voluntary Annexation

BEING A PORTION OF THE ROBERT W. & JULIE M VAN CAMP, THOMAS M. VAN CAMP, TRUSTEE TRACT OR PARCEL OF LAND IN MCNEILL TOWNSHIP, SOUTHERN PINES, MOORE COUNTY, NORTH CAROLINA, DESCRIBED IN DEED BOOK 4593 PAGE 407 IN THE MOORE COUNTY REGISTRY AND MORE PARTICULAR DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON ROD SET, SAID IRON ROD BEING LOCATED AT THE INTERSECTION OF THE NORTHERN RIGHT-OF-WAY OF PAVILION WAY (50' RIGHT-OF-WAY) AND THE EASTERN RIGHT-OF-WAY OF BRUCEWOOD ROAD (100' RIGHT-OF-WAY); THENCE WITH THE NORTHERN RIGHT-OF-WAY OF PAVILION WAY THE FOLLOWING CALLS: S 73°54'37" E A DISTANCE OF 164.22' TO AN IRON ROD SET;

THENCE A CURVE TO THE LEFT HAVING A RADIUS OF 1005.00' A CHORD BEARING OF S 76°20'11" E A CHORD DISTANCE OF 85.08' TO AN IRON ROD SET; THENCE S 78°45'45" E A DISTANCE OF 91.51' TO AN IRON ROD SET;

THENCE LEAVING THE PAVILION WAY NORTHERN RIGHT-OF-WAY N 12°34'40" E A DISTANCE OF 354.95' TO AN IRON ROD SET, SAID IRON ROD BEING LOCATED IN THE SOUTHERN RIGHT-OF-WAY OF SOUTH CARLISLE STREET (80' RIGHT-OF-WAY); THENCE A CURVE TO THE RIGHT HAVING A

RADIUS OF 1080.00' A CHORD BEARING OF S 88°55'50" W A CHORD DISTANCE OF 333.92' TO AN IRON ROD SET, SAID IRON ROD BEING LOCATED AT THE INTERSECTION OF THE SOUTHERN RIGHT-OF-WAY OF CARLISLE STREET AND THE EASTERN RIGHT-OF-WAY OF BRUCEWOOD ROAD;

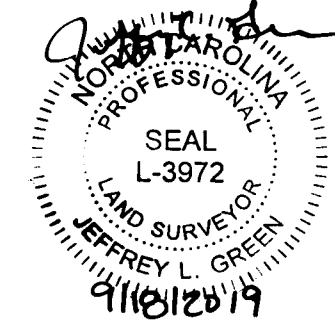
THENCE WITH THE EASTERN RIGHT-OF-WAY OF BRUCEWOOD ROAD S 16°00'21" W A DISTANCE OF 267.11' TO THE POINT OF BEGINNING HAVING AN AREA OF 2.32 ACRES.

7-28-21

I, JEFFREY L. GREEN, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION (DEED REFERENCES AS SHOWN); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN REFERENCES AS SHOWN; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:10,000+; THAT THIS PLAT WAS NOT PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 10th DAY OF SEPTEMBER, A.D. 2019

Jeffrey L. Green
PROFESSIONAL LAND SURVEYOR

L-3972
LICENSE NUMBER



I, JEFFREY L. GREEN, PROFESSIONAL LAND SURVEYOR, L-3972, CERTIFY TO THE FOLLOWING AS REQUIRED IN G.S. 47-30(b)(1):

THAT THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION.

Jeffrey L. Green
SURVEYOR

9/18/2019
DATE

State of North Carolina
I, Deanna Spell, Review Officer of Moore County,
North Carolina, certify that the map or plat which this certification is affixed meets all statutory requirements for recording.
Deanna Spell
Review Officer
9-19-2019
Date

CERTIFICATE OF EXEMPTION

I HEREBY CERTIFY THAT THIS PLAT IS EXEMPT FROM THE DEVELOPMENT ORDINANCE UNDER DEFINITIONS OF EXEMPTION CONTAINED IN 2.19.2 IN THE TOWN OF SOUTHERN PINES UDO:

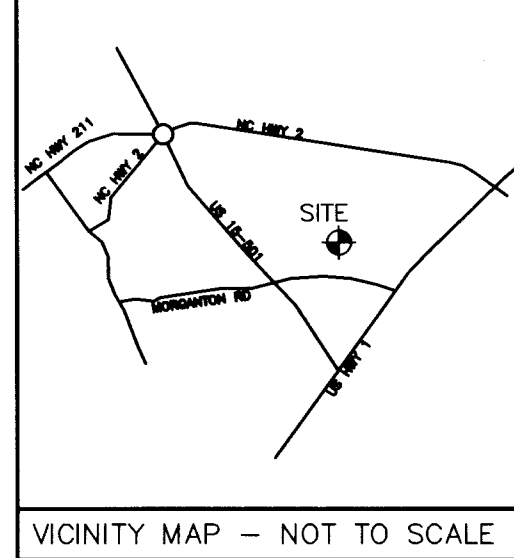
(B)THE DIVISION OF LAND INTO PARCELS GREATER THAN TEN(10) ACRES WHERE NO STREET RIGHT-OF-WAY DEDICATION IS INVOLVED.

Planning Director

9/18/19
DATE

FOR REGISTRATION REGISTER OF DEEDS
Judy D. Pratt, II, NC
Moore County, NC
September 19, 2019 11:47:06 AM
Book 18 Page 239-239
FEE \$21.00
INSTRUMENT # 2019013866

PLAT CABINET 18 SLIDE 239

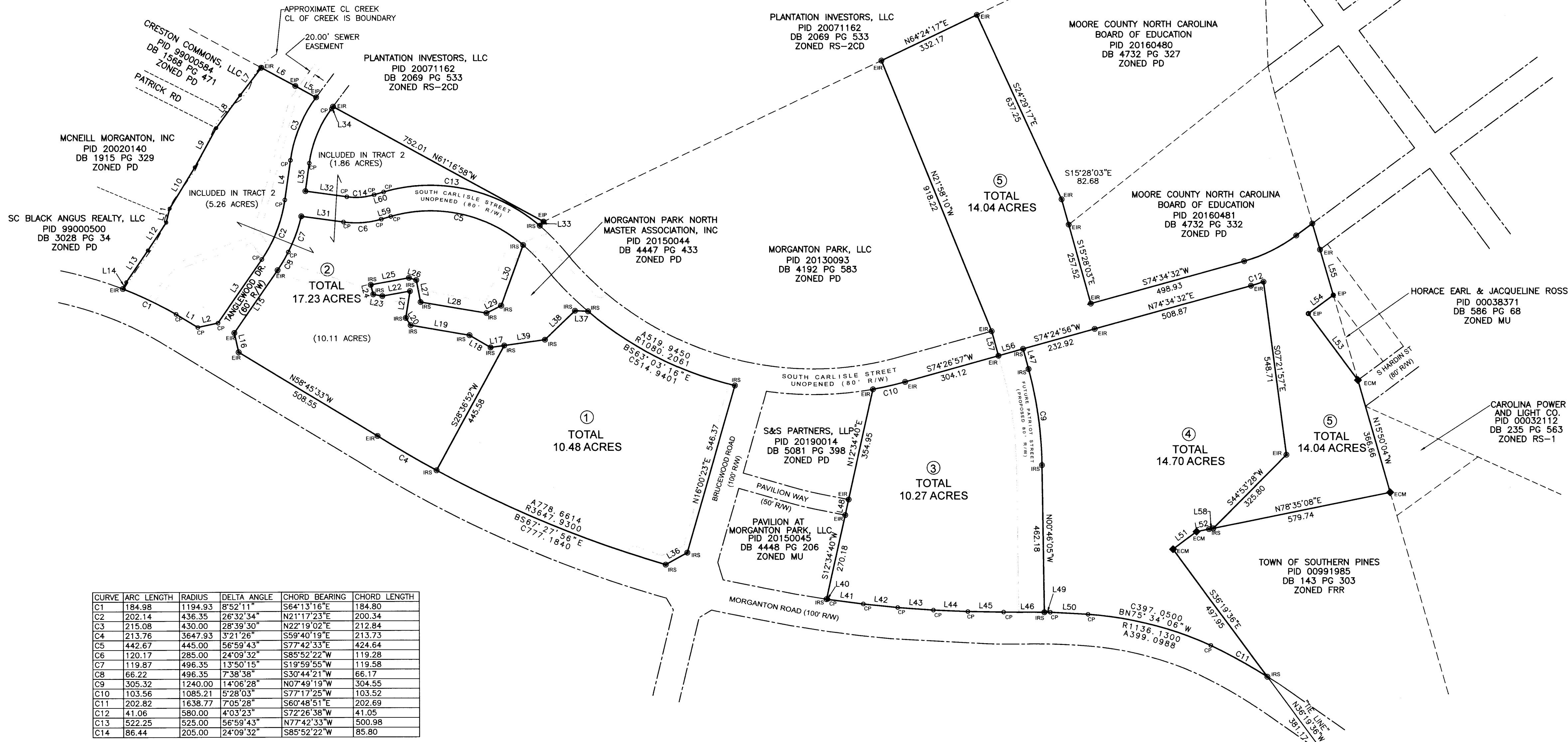


TITLE REFERENCE

PID 20150046
PIN 857100394875
DEED BOOK 4504 PAGE 322
MOORE COUNTY REGISTRY

PID 00037588
PIN 857100595604
DEED BOOK 4504 PAGE 322
MOORE COUNTY REGISTRY

LINE	BEARING	DISTANCE
L1	S58°45'33"E	79.57
L2	N77°45'19"E	64.86
L3	N34°33'35"E	243.15
L4	N08°09'28"E	125.44
L5	N60°51'02"W	74.01
L6	N61°28'45"W	121.48
L7	S37°23'38"W	108.94
L8	S36°13'26"W	127.60
L9	S28°50'09"W	139.85
L10	S31°28'15"W	151.79
L11	S13°36'05"W	44.91
L12	S33°33'17"W	105.13
L13	S34°09'02"W	120.88
L14	S26°43'17"W	23.99
L15	N34°33'35"E	239.46
L16	S12°17'53"E	61.85
L17	S81°56'55"W	43.42
L18	N59°39'48"W	76.25
L19	N80°20'29"W	187.26
L20	N33°33'20"W	27.44
L21	N08°50'56"E	85.46
L22	S79°49'31"W	88.02
L23	N79°02'33"W	28.85
L24	N14°11'01"W	31.27
L25	N79°39'48"E	121.51
L26	N73°18'34"W	24.15
L27	S10°50'05"E	70.87
L28	S80°21'04"E	209.29
L29	N63°19'16"E	51.79
L30	N19°57'19"E	203.40
L31	N82°02'52"W	133.16
L32	S82°02'52"E	131.14
L33	S43°21'21"W	17.59
L34	N35°00'46"E	9.05
L35	S08°00'27"W	88.36
L36	N60°53'55"E	76.69
L37	N87°29'51"W	41.24
L38	S46°08'20"W	130.69
L39	S81°56'41"W	128.92
L40	S80°47'15"E	4.40
L41	S82°27'33"E	111.62
L42	S84°00'26"E	108.22
L43	S85°44'17"E	112.32
L44	S87°27'10"E	108.02
L45	S89°03'27"E	112.41
L46	S89°39'43"E	127.56
L47	N14°52'33"W	65.47
L48	S12°34'40"W	50.01
L49	S89°39'43"E	118.60
L50	S86°48'02"E	118.37
L51	N53°20'16"E	92.38
L52	N78°35'08"E	40.26
L53	N36°34'09"W	260.49
L54	N53°26'54"E	97.56
L55	N16°04'13"W	148.77
L56	S74°26'37"W	80.01
L57	N15°37'23"W	80.03
L58	S78°35'08"W	13.41
L59	N73°47'36"E	30.99
L60	S73°47'36"W	30.99



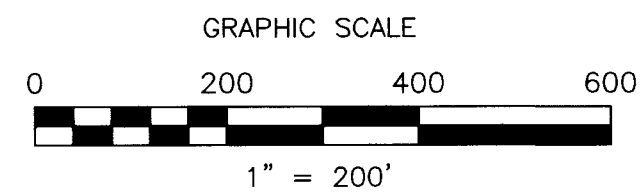
CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	184.98	1194.93	8°52'11"	S64°13'16"E	184.80
C2	202.14	436.35	26°32'34"	N21°17'23"E	200.34
C3	215.08	430.00	28°39'30"	N22°19'02"E	212.84
C4	213.76	3647.93	3°21'26"	S59°40'19"E	213.73
C5	442.67	445.00	56°59'43"	S77°42'33"E	424.64
C6	120.17	285.00	24°09'32"	S85°52'22"W	119.28
C7	119.87	496.35	1°35'01"	S19°59'55"W	119.58
C8	66.22	496.35	7°38'38"	S30°44'21"W	66.17
C9	305.32	1240.00	14°06'28"	N07°49'19"W	304.55
C10	103.56	1085.21	5°28'03"	S77°17'25"W	103.52
C11	202.82	1638.77	7°05'28"	S60°48'51"E	202.69
C12	41.06	580.00	4°03'23"	S72°26'38"W	41.05
C13	522.25	525.00	56°59'43"	N77°42'33"W	500.98
C14	86.44	205.00	24°09'32"	S85°52'22"W	85.80

LEGEND
UNLESS OTHERWISE DENOTED
● = EIR = EXISTING IRON ROD
● = IRS = IRON ROD SET
□ = ECM = EXISTING CONCRETE MONUMENT
○ = EIP = EXISTING IRON PIPE
"CC" = CONTROL CORNER
○ = UTILITY POLE
□ = SEWER CLENOT
--- = ADJOINING BOUNDARY LINE
--- = RIGHT-OF-WAY
--- = UTILITY EASEMENT (LOCATIONS PROVIDED BY THE TOWN OF SOUTHERN PINES)

NOTES:

1. THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHT OF WAYS, AND AGREEMENTS OF RECORD PRIOR TO THE DATE OF THIS PLAT.
 2. ALL PROPERTY LINES AND CORNERS ESTABLISHED USING EXISTING CORNERS FOUND, EXISTING BOUNDARY EVIDENCE, AND DEEDS AND PLATS OF RECORD IN THE MOORE COUNTY REGISTRY.
 3. ALL DISTANCES ARE HORIZONTAL GROUND.
 4. ALL AREAS BY COORDINATE COMPUTATION.
 5. GRID COORDINATES ESTABLISHED USING GPS METHODS USING OPUS.
 6. THIS PROPERTY DOES NOT LIE WITHIN A DESIGNATED FEMA SPECIAL FLOOD HAZARD AREA PER FIRM NO. 37108571004 WITH AN EFFECTIVE DATE OF 10/17/2006.
 7. ZONING INFORMATION: ZONED PD (PLANNED DEVELOPMENT).
- FOR SETBACK INFORMATION CONTACT
THE TOWN OF SOUTHERN PINES
PLANNING DEPARTMENT 910.632.4003

EXCEMPT SURVEY OF
TRACTS 1, 2, 3, 4 & 5 MORGANTON PARK
MINERAL SPRINGS TOWNSHIP, TOWN OF SOUTHERN PINES
MOORE COUNTY, NORTH CAROLINA
SEPTEMBER 16, 2019 SCALE 1"= 200'
FIELD SURVEY-AUGUST, 2019



OWNER: ROBERT W. & JULIE M.
VAN CAMP, TRUSTEE
P.O. BOX 1389
PINEHURST, N.C. 28370
SURVEYOR: JEFFREY L. GREEN, PLS
6322 BIG OAK CHURCH ROAD
EAGLE SPRINGS, N.C. 27242
(910) 975-2306

PETITION FOR VOLUNTARY ANNEXATION

To the Town Council of the Town of Southern Pines, North Carolina:

1. I/We the undersigned owner(s) of real property respectfully request that the area described in the attached Exhibit A be annexed to the Town of Southern Pines.
2. The area to be annexed is **contiguous** to the Town of Southern Pines and the boundaries of such territory are described in the attached metes and bounds description, Exhibit A.
3. The area is identified as PIN: _____; PARID: _____.

Property Owner(s):

Name: Charles Gress

Signature: 

Address: _____

Name: _____

Signature: _____

Address: _____

Name: _____

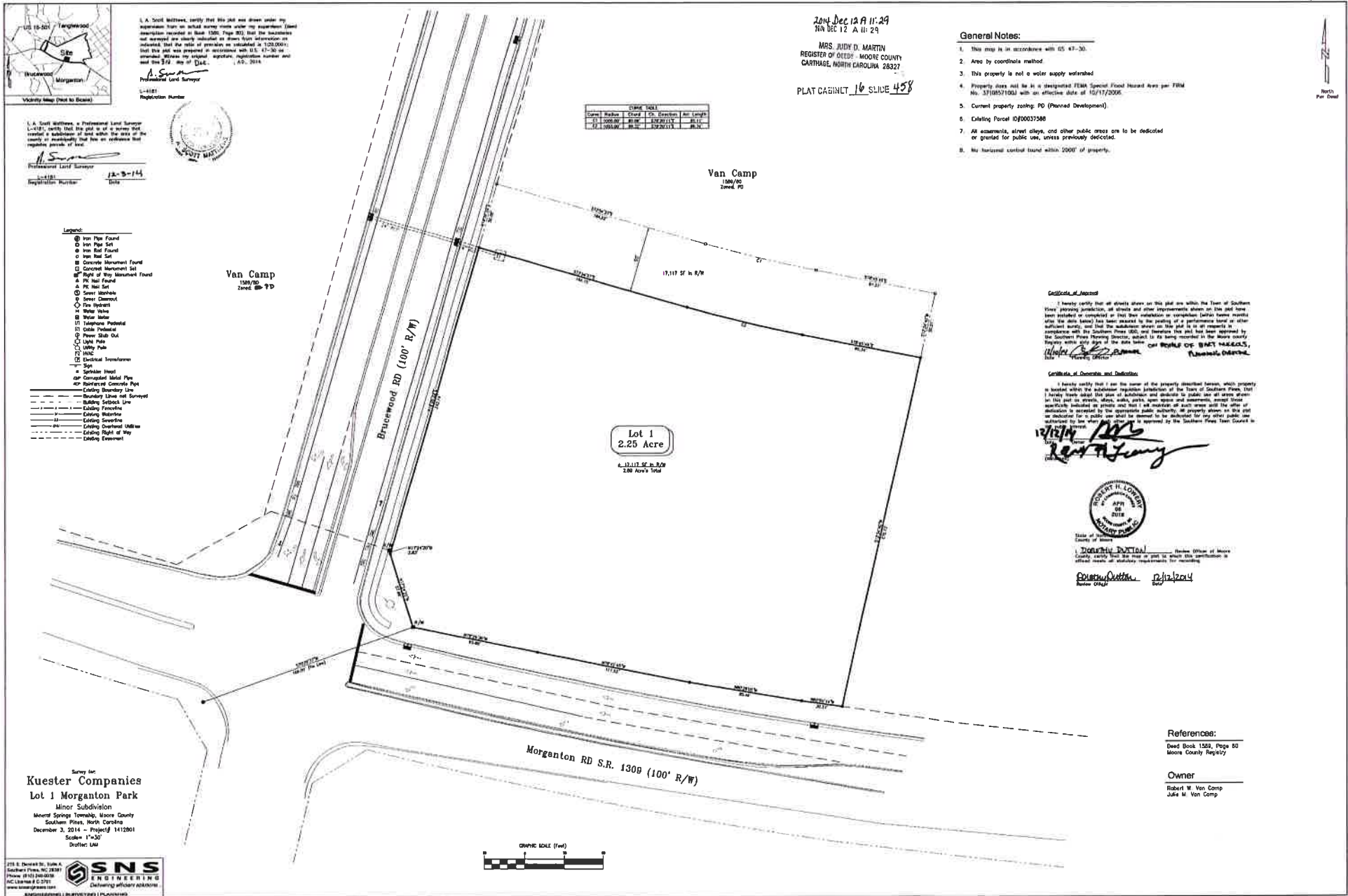
Signature: _____

Address: _____

(Duplicate this form to add names, addresses and signatures of property owners, as necessary.)

Metes and Bounds Description of Pavilion Way

Beginning at an existing iron rod, said rod being the northwest corner of Lot 1 as shown on Plat Cabinet 16, Slide 458 in the Moore County Registry; thence from the beginning and with the eastern right of way of Brucewood Road N16°00'22"E 50.00' to a point; thence leaving the right of way S73°54'37"E 164.22' to a point, thence a curve to the left having a radius of 1,005' a chord direction of S76°20'11"E and a chord distance of 85.08' to a point; thence S78°45'45"E 91.51' to a point; thence S12°34'40"W 50.01' to an iron rod, the northeast corner of Lot 1; thence as the northern lines of Lot 1; N78°45'45"W 90.34' to an iron rod; thence a curve to the right having a radius of 1,055' a chord direction of N76°20'11"W and a chord distance of 89.32' to an iron rod; thence N73°54'37"W 164.15' to the point and place of beginning and containing 17,117 square feet more or less and being the 17,117 SF R/W as shown on Plat Cabinet 16, Slide 458 in the Moore County Registry.



TOWN OF SOUTHERN PINES RESOLUTION #1022
DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED
UNDER G.S. 160A-31

AX-04-22: S&S Partners/Morganton Park North Master Association

WHEREAS, a petition requesting annexation of an area described in said petition was received on August 2, 2022 by the Town Council of the Town of Southern Pines; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

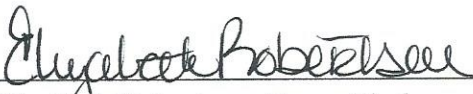
WHEREAS, the Town Council of the Town of Southern Pines deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southern Pines that the Town Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the Town Council the result of her investigation.

Adopted this 22nd day of August, 2022.

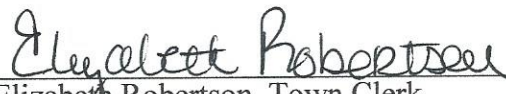
ATTEST:

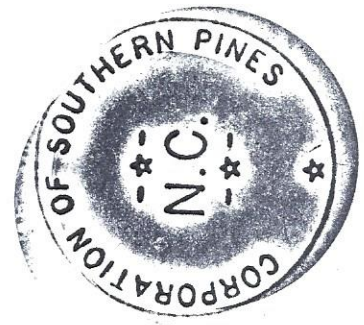
TOWN OF SOUTHERN PINES


Elizabeth Robertson, Town Clerk


Carol R. Haney, Mayor

I certify that this Resolution was adopted by the Town Council of the Town of Southern Pines at its meeting on August 22, 2022 as shown in the Minutes of the Town Council meeting for that date.


Elizabeth Robertson, Town Clerk



TOWN OF SOUTHERN PINES RESOLUTION #1024
SETTING DATE OF PUBLIC HEARING FOR ANNEXATION APPLICATION
AX-04-22; Sandhills Pediatrics

WHEREAS, a petition requesting annexation of an area described herein has been received; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the Town Clerk as to the sufficiency of said petition has been made;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Southern Pines, North Carolina:

Section 1. That a public hearing on the question of annexation of the area described herein will be held at the Douglass Community Center at 6:00 pm on October 11, 2022.

Section 2. The area proposed for annexation is described as follows:

Property Owners/Applicants:

S & S Partners, LLP. /William L. Stewart, M.D.
195 W. Illinois Avenue
Southern Pines, NC 28387

Property Identification Number (PIN) and Parcel Identification:

PIN: 857100496541; PARID: 20190014

Size of Property:

Total Acreage: 2.32 acres

Meets & Bounds Description:

Being a portion of the Robert W. & Julie M. Van Camp, Thomas M. Van Camp, Trustee Tract of Parcel of Land in McNeill Township, Southern Pines, Moore County, North Carolina, described in Deed Book 4593 Page 407 in the Moore County Registry and more particularly described as follows:

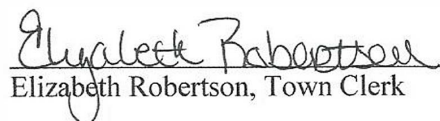
Beginning at an iron rod set, said iron rod being located at the intersection of the northern right-of-way of Pavilion Way (50' right-of-way) and the eastern right-of-way of Brucewood Road (100' right-of-way);
thence with the northern right-of-way of Pavilion Way the following calls: S 73°54'37" a distance of 164.22' to an iron rod set;
thence a curve to the left having a radius of 1005.00' a chord bearing of S 76°20'11" E a chord distance of 85.08' to an iron rod set;
thence leaving the pavilion way northern right-of-way N 12°34'40" E a distance of 357.95' to an iron rod set, said iron rod being located in the southern right-of-way of South Carlisle Street (80' right-of-way);
thence a curve to the right having a radius of 1080.00' a chord bearing of S 88°55'50" W a chord distance of 333.92' to an iron rod set, said iron rod being located at the intersection of the Southern right-of-way of Carlisle Street and the eastern right-of-way of Brucewood Road;
thence with the eastern right-of-way of Brucewood Road S 16°00'21" W a distance of 267.141' to the point of beginning having an area of 2.32 acres.

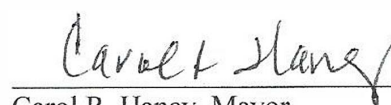
Section 3. Notice of said public hearing shall be published in The Pilot, a newspaper having general circulation in the Town of Southern Pines, at least ten (10) days prior to the date of said public hearing.

Adopted this 13th day of September, 2022.

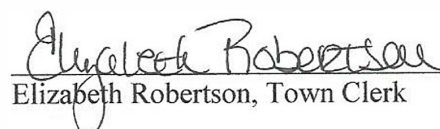
ATTEST:

TOWN OF SOUTHERN PINES


Elizabeth Robertson, Town Clerk


Carol R. Haney, Mayor

I certify that this resolution was adopted by the Town Council of the Town of Southern Pines at its meeting of September 13, 2022 as shown in the minutes of the Town Council for that date.


Elizabeth Robertson, Town Clerk



**TOWN OF SOUTHERN PINES ORDINANCE #2028
TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF SOUTHERN PINES,
NORTH CAROLINA AX-04-22; Sandhills Pediatrics**

THAT WHEREAS, the Town Council has been petitioned under G.S. 160A-31 as amended to annex the area described herein; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation, AX-04-22, was scheduled to be held in regular session of the Town Council at the Douglass Community Center at 6:00 P.M. on the 11th day of October, 2022 after due notice by publication on September 25, 2022; and

WHEREAS, after the completion of said public hearing and upon consideration of any comments, objections or presentation at that hearing, and

WHEREAS, based on the certification of the Town Clerk and other information presented at said hearing, Council finds it proper and in the best interest of the Town to annex the following parcel according to the requirements of G.S. 160A-31:

Being a portion of the Robert W. & Julie M. Van Camp, Thomas M. Van Camp, Trustee Tract of Parcel of Land in McNeill Township, Southern Pines, Moore County, North Carolina, described in Deed Book 4593 Page 407 in the Moore County Registry and more particularly described as follows:

Beginning at an iron rod set, said iron rod being located at the intersection of the northern right-of-way of Pavilion Way (50' right-of-way) and the eastern right-of-way of Brucewood Road (100' right-of-way);
thence with the northern right-of-way of Pavilion Way the following calls: S 73°54'37" a distance of 164.22' to an iron rod set;
thence a curve to the left having a radius of 1005.00' a chord bearing of S 76°20'11" E a chord distance of 85.08' to an iron rod set;
thence leaving the pavilion way northern right-of-way N 12°34'40" E a distance of 357.95' to an iron rod set, said iron rod being located in the southern right-of-way of South Carlisle Street (80' right-of-way);
thence a curve to the right having a radius of 1080.00' a chord bearing of S 88°55'50" W a chord distance of 333.92' to an iron rod set, said iron rod being located at the intersection of the Southern right-of-way of Carlisle Street and the eastern right-of-way of Brucewood Road;
thence with the eastern right-of-way of Brucewood Road S 16°00'21" W a distance of 267.141' to the point of beginning having an area of 2.32 acres.

A map of the area herein described is provided with this Ordinance as Attachment A.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines, North Carolina in regular session this 11th day of October, 2022:

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, the above described territory is hereby annexed and made part of the Town of Southern Pines as of the 11th day of October, 2022.

Section 2. Upon and after the 11th day of October, 2022 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Southern Pines and shall be entitled to the same privileges and benefits as other parts of the Town of Southern Pines. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Southern Pines shall cause to be recorded in the office of the Register of Deeds of Moore County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof. Such a map shall also be delivered to the County Board of Elections as required by G.S. 163-288.1.

Section 4. This Ordinance shall be and remain in full force and effect from and after the date of its adoption.

Adopted this 11th day of October, 2022.

ATTEST:

TOWN OF SOUTHERN PINES

Elizabeth Robertson, Town Clerk

Carol R. Haney, Mayor

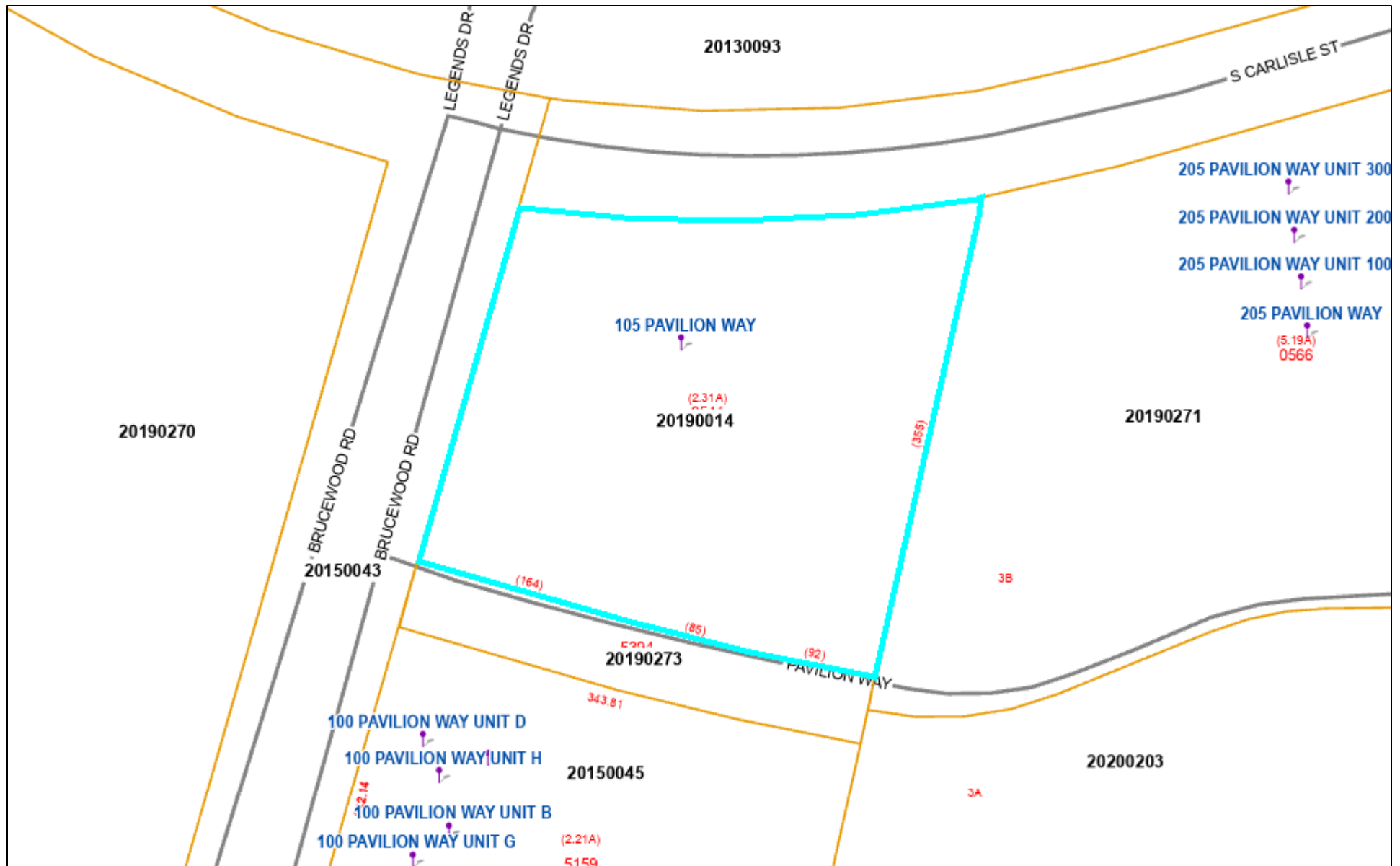
APPROVED AS TO FORM:

Douglas R. Gill, Town Attorney

I certify that this Ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting on October 11, 2022 as shown in the Minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk

ATTACHMENT 'A'



1 inch = 100 feet

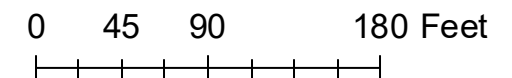
August 30, 2022



Name: S & S PARTNERS LLP

Parcel ID: 20190014

Deeded Acres: 2.32



COUNTY OF MOORE
STATE OF NORTH CAROLINA

I swear that this is a true and accurate copy of Ordinance #2028 amending the Zoning Map of the Town of Southern Pines adopted on October 11, 2022 (AX-04-22).

Elizabeth Robertson, Town Clerk

Date

DRAFT

Agenda Item

To: Reagan Parsons, Town Manager
From: Pamela Graham, Principal Planner
Subject: AR-12-22 Waterworks Plus
Date: October 11, 2022

I. SUMMARY OF APPLICATION REQUEST:

Mr. Bryan Bowles of Neal Smith Engineering is requesting approval of an Architectural Compliance Permit on behalf of property owner PTAH, LLC (Andy Bleggi, Registered Agent) for the Waterworks Plus project. The project was approved as a Planned Development District on January 11, 2022, with the Phase 1 PDP being approved on February 8, 2022. The project is located at the site that formerly served as the Southern Pines water plant, on NC Highway 22, just east of Reservoir Park. (See Figure 1). A previous architectural permit request for Waterworks SNC was approved by Town Council on August 9, 2022.

II. PROJECT INFORMATION:

- **PARID** 00039185; **PIN** 858300245709
- **Applicant:**
Neal Smith Engineering, Inc. on behalf of Andy Bleggi of PTAH, LLC
139 Pinehurst Avenue
Suite C
Southern Pines, NC 28387

Figure 1: Vicinity Map for Subject Property Outlined in Red

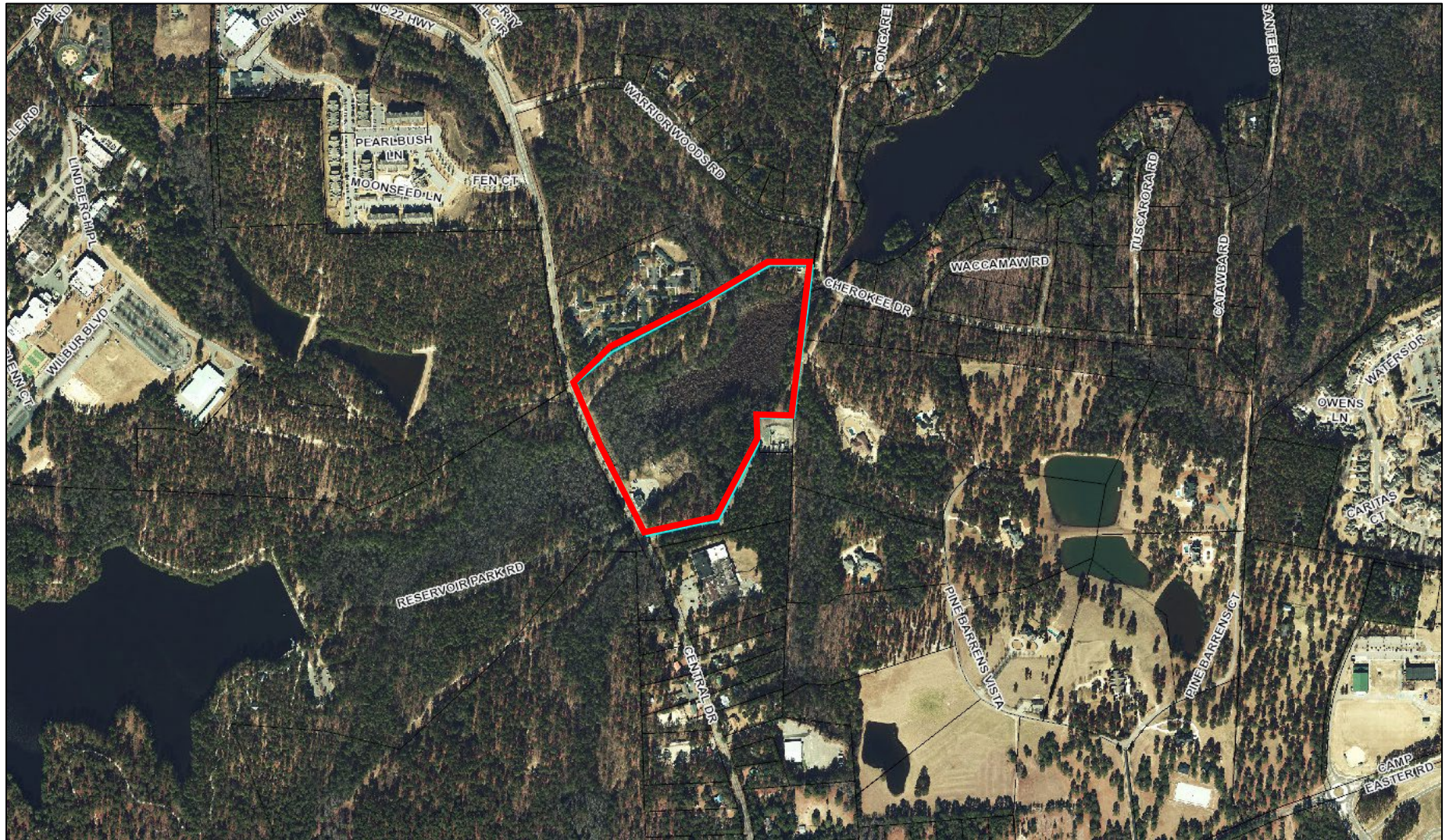
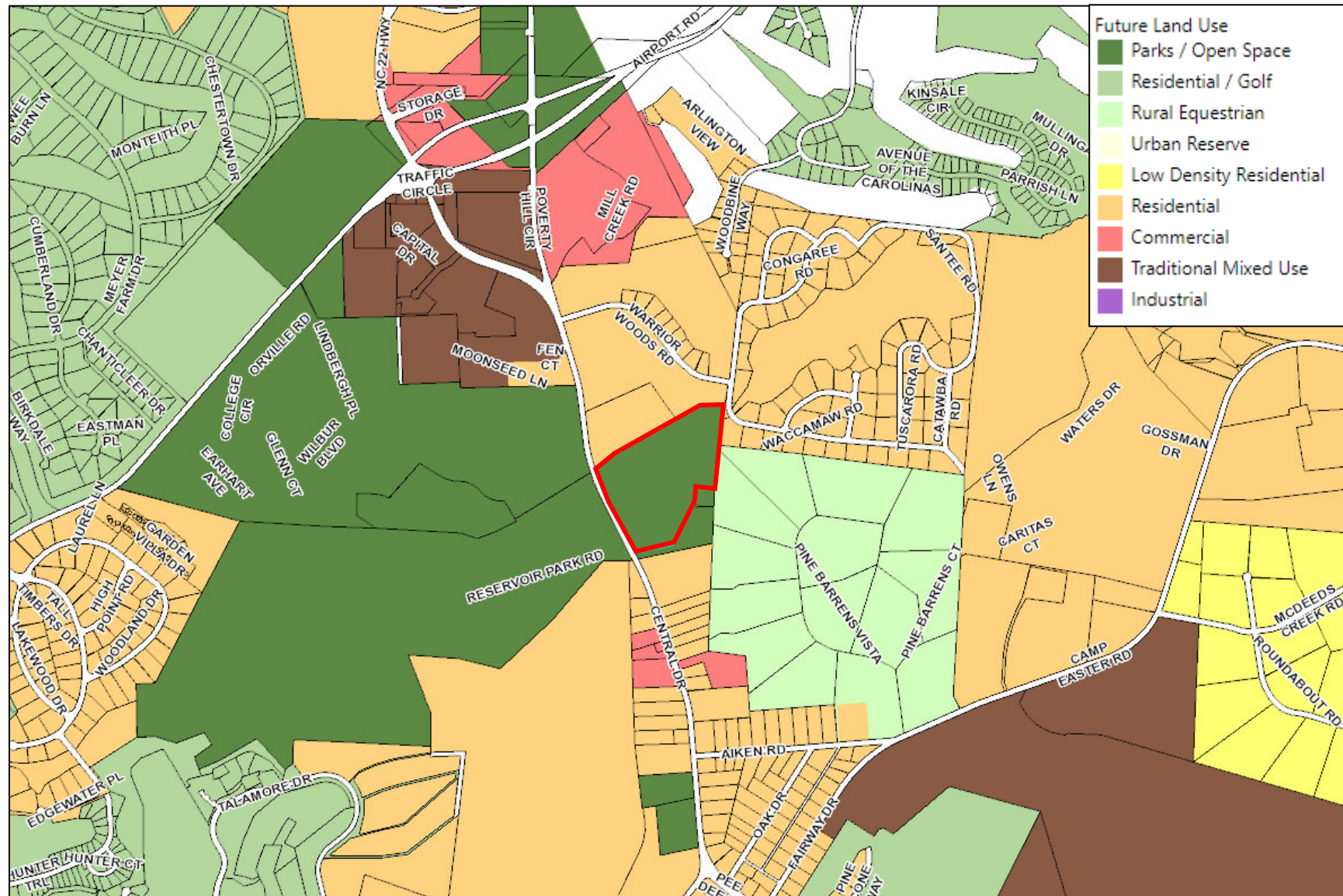


Figure 2: Zoning Map for Subject Property Outlined in Red



Figure 3: CLRP Future Land Use Map Designation Subject Property Outlined in Red



1. Future Land Use Map Designation (see Figure 3):

Following approval of the rezoning from Facilities, Resource and Recreation District to a Planned Development in 2018, the Comprehensive Long-Range Plan's Future Land Use Map was amended to reflect Traditional Mixed Use as the future land designation. The Traditional Mixed Use designation category applies to larger, mostly undeveloped parcels well-suited to mixing residential and non-residential uses in a manner similar to that found in downtown Southern Pines. No specific development intensity is implied by the designation, but the expectation is that these areas will be built to urban levels, will incorporate a variety of uses, and will have a street network that accommodates modes of travel beyond the automobile.

The 28.8 acre parcel contains substantial areas of mapped floodplain, and wetlands as identified by US Fish and Wildlife. The site plan shows the building's southeastern corner, a portion of the sidewalk and paved area behind the building, and an access drive encroaching into the wetlands.

2. Zoning:

The project is zoned Planned Development (PD), following approval of a rezoning request in April of 2018, amended in January of 2022.

In Section 2.2 "Vision" of the CDP Application, the applicant describes the project's architectural themes, landscaping and design elements as being common to Southern Pines, "as described in the Town of Southern Pines UDO". No specific UDO reference is provided; however, 4.10.2(B) – Development Design Standards, Purpose and General Principles provides the following guidance: "The design and configuration of structures and their materials and colors shall be visually harmonious with the overall appearance, history and heritage of the Town."

An Urban Transition Highway Corridor Overlay (HCO) District applies to the portion of the property that is parallel to the highway within 400' from the right-of-way. This component of the development is almost entirely outside of the HCO District.

The Highway Corridor Overlay Districts are described as being *established to place special land Development controls on land adjacent to major highway corridors to protect the natural and environmental features that constitute important physical, aesthetic, recreational and economic assets to the community.*

Furthermore, §3.65(C)(1) states that the Urban Transition Highway Corridor Overlay District "*shall be developed with a balance of residential, recreational and commercial uses. These sections are best suited for providing a balance of naturalized and manmade conditions. The visual quality of these sections depends on quality site planning, landscaping and preservation of natural features*"

3. Planned Development Approval:

The initial approval of the property as a PD District in 2018 was amended in 2022 to include, per the application, "a modified Conceptual Development Plan (CDP) that better addresses planned development in the Planned Development (PD)

District” and to “establish the permitted uses, density, standards and conditions under with the subject property shall be developed through this document”. The CDP states that “a variety of land uses and building types including single family, retail, restaurant, service and office uses” are encouraged, and “results in a master planned development, and discourages disjointed, piecemeal development” while excluding “very intensive commercial uses and heavy industry”.

III. STAFF REVIEW:

- **Review Process:**

Applications for Architectural Compliance Permits are reviewed pursuant to UDO §2.26.

- **Application Review Dates:**

Application Submitted: May 2, 2022

Application Resubmittal: May 11, 2022

Application Complete: May 20, 2022

Town Council Presentation Delayed by Applicant until August: June 14, 2022

Town Council Presentation Delayed by Applicant until September: July 8, 2022

Town Council Presentation Delayed by Applicant until October: August 11, 2022

Town Council Agenda Meeting: October 5, 2022

Town Council Regular Meeting: October 11, 2022

- **Criteria for Review:**

When reviewing an application for an Architectural Compliance Permit, the Town Council shall approve, conditionally approve or deny the application based on the following criteria, as set forth in **UDO §2.26.7**:

1. *The application is consistent with applicable Comprehensive Plan goals and policies;*
2. *The application substantially conforms with the applicable multi-family or commercial design standards and other applicable provisions of the UDO, including the purposes of the zoning district in which the property is located;*
3. *The application is consistent with applicable conditions of prior Development approvals; and*
4. *The development as proposed will be compatible with neighboring development and has mitigated potential conflicts.*

- **Staff Comments based on Building Design Requirements per UDO §4.10.4:**

UDO §4.10.4 includes requirements as listed below; *applicant responses are included in italicized text* and may also be found in the attached “Narrative and Architectural Compliance per Covenants” document. **Staff notes are in bold type**, and staff assessment regarding compliance with the requirements is signified in the bullet symbols shown below. Staff has also summarized non-compliant features of the proposal in “Section IV – Noteworthy Project Elements for Town Council Consideration” of this report.

✓ = compliant ✕ = not compliant ? = compliance has not been determined

- ✓ The front of buildings shall face and have the primary customer entry facing the street.
"The main entrance to the building the is facing the main parking area associated with the building."
Staff note: The building as shown on the site plan does show the primary entrance facing the street-side of the property. The building is separated from the street by a parking lot and the existing and planned expansion of the Waterworks SNC building. Secondary entrances are proposed for each side of the building.
- ✓ Maximum spacing or distance between customer entries in the HCO District is 150', and may be increased for buildings located at least 40 feet back from the sidewalk and for buildings with common entries serving multiple businesses.
"The main entrance centered in the building is facing the main parking area and have secondary entrances located on each side of the building."
Staff note: The longest distance between the primary entrance and any secondary entrance appears to measure +/- 140'.
- ✕ In all districts other than Central Business (CB) and Downtown Overlay (DTO) Districts, the width of the buildings or building segments shall not be more than twice the building height.
"This building height is 29.00ft to the top of the finished parapet. 29.00ft x 5.5 = 159.50ft > 99.56ft (actual width of the building)"
Staff note: The applicant is referencing language they have placed in their Declaration of Covenants, Conditions, Easements, Restrictions, Charges, Liens, and Reservations, which will be referred to as "Covenants" by staff in this report. The language constitutes a deviation from the UDO. It should also be noted that the Town has no regulatory authority over the "Covenants" and cannot prevent future changes that may be made to them.

The building height is 29'-0" and the width of the front of the building is 99'-7". The UDO standard restricts the width of the building or building segments to no more than twice the height. The correct calculation based on a 29' height calls for the building or building segments to be no more than 58' wide across the front (29 x 2 = 58'). As noted in the next criterion, the exterior design does not include segmentation, and therefore the building is nearly 3.5 times as wide as it is tall and exceeds the standard.
- ✕ Building segments may be created through a combination of vertical features such as changes in material, building offsets, courtyards,

changes in rooflines or architectural features that create the appearance of building segments.

“This building will used flat ACM panel on three sides and broken up by the use of doors/windows and metal panels on the rear that also use doors/windows to break up the look of the façade.”

Staff note: The use of doors and windows are not an adequate means of addressing this standard.

- x Building Materials.** The exterior finish of building walls shall be primarily comprised of brick. Cementitious horizontal lap siding, textured concrete masonry, cast stone and stucco may be used for accents, provided that they cover no more than twenty (20) percent of the exterior walls, exclusive of doors and windows. Wood and metal may be used as trim around doors and windows. The permit-issuing authority may approve:

- The use of alternative building materials that establish an equivalent appearance and have equal or greater durability.
- Alternative materials satisfying minimum building code standards on walls that are screened and not visible from any public street, walkway or residential zoning district.
- Alternative materials satisfying minimum building code standards for structures located within a planned golf course Development that are compatible with the Development and the proposed location within the Development.

“This structure will be primarily constructed of ACM panels on three sides and vertical ribbed metal panels on the rear.”

Staff note: The exterior of the building consists of 0% brick, and is covered entirely in ACM (aluminum composite material) and ribbed metal panels.

Deviations may be granted by the Town Council on this item if the applicant establishes adequate justification that the alternative building material has an appearance equivalent to the required materials, and has equal or greater durability, or that the walls will be screened and not visible from any public street, walkway, or residential zoning district.

✓/x Windows

- ✓ Windows shall be glazed in non-reflective, clear glass.
“Windows will be Low-E, non-reflective tinted, glass in accordance with NC Energy Conservation Code (latest edition).”

Staff note: Southern Pines’ Inspection Department has confirmed that clear glass is not compliant with the North Carolina Building Code. Although the UDO calls for clear

glass, this cannot be achieved and remain compliant with building code.

- ?** In all zoning districts other than the Central Business (CB) District, windows and doors shall comprise at least twenty-five (25) percent of street-facing building facades between the elevations of two (2) and ten (10) feet above the grade of the building entry.

“The building does not front on a “public” street.”

Staff note: The building does not directly front on the public street; however, it does face the street and will be visible from the street. Calculations of window and door openings as a percentage of the street-facing façade has not been provided and it is unknown if the design constitutes a deviation from the standard that requires approval by Town Council.

✓/x Awnings

- ✓** Awnings are encouraged and may encroach over the sidewalk within the CB district and may encroach up to six (6) feet into any street side setback in other districts.

“All main level “customer” entrances will have awnings and they will be above the 7ft requirements outlined in this section.”

Staff note: The 7 ft requirement mentioned here is taken from the “Covenants” and is not consistent with UDO requirements. However, any awnings proposed for the building will not encroach into a side street setback.

- ✓** The minimum clearance between the lowest point of an awning and sidewalk shall be eight (8) feet.

Staff note: The applicant does not address this standard specifically; however, building elevations indicate that the primary entry doorway measures 8’ from the finished floor elevation, with the awning placed above. The design is compliant with this standard. No additional awnings were detected by staff.

- ?** Awnings shall be canvas or material of similar appearance and flexibility unless otherwise approved by the Town Council. Street facing awnings shall not be taller than six (6) feet unless specifically approved by the Town Council.

“A single awning is being used at the primary entrance. The owner would like to reserve the right to add awning to the entry doors located on sides and rear of the building.”

Staff note: The UDO does not require awnings, only encourages them; additional awnings may be included in the design as long as they either meet the standards or have been granted deviations by Town Council. Staff did not detect a proposed material for the one awning shown on plans; it is likely to be of rod-hung metal similar to the

Waterworks SNC building, which was granted a deviation to use this material. If Town Council grants a similar deviation for the Waterworks Plus building, it is recommended that they accommodate additional awnings in the deviation approval.

✓ **Galleries and Arcades**

- Galleries and arcades are encouraged and may encroach up to six (6) feet into any street side setback but may not encroach into the public right-of-way.
- The minimum clearance for arcades and galleries shall be twelve (12) feet between the sidewalk and the ceiling of the gallery or arcade.

"No galleries or arches are planned for this structure."

Staff note: Galleries and arcades are encouraged but not required. Since the applicant is not proposing to include galleries or arcades, no determination of compliance with this requirement is needed.

✓ **Roofs**

In all zoning districts other than the Central Business (CB) District, buildings may use parapets with cornices, gable or hip roofs. Changes in parapet height or design, gables or other changes in the roofline as viewed from any public street shall be required for any building that is wider than one hundred (100) feet. For buildings that are wider than one hundred (100) feet, changes in rooflines shall be used to avoid uninterrupted planes of longer than two hundred (200) feet.

"Parapet are planned for this building to a height just above the roof and will maintain a minimum distance to all roof top equipment front back of parapet in accordance with OSHA requirements for fall protection. No change I parapet height is planned for this building."

Staff note: The front façade of the building measures 99'-7" in width. This standard does not apply.

- Shingles or standing seam, non-reflective metal shall be used on all roofs visible from public streets. Brightly colored roofs, such as intense blues, reds or oranges are prohibited.

"Standing seam roof (non-reflective) is planned for this building." **Though no color is mentioned for the roofing material, the design indicates a flat roof with a 1'-8" parapet. The building will be visible from the public street, but the roof will not. This portion of the proposal is compliant with requirements.**

- ✓ **Mechanical Equipment.** Mechanical equipment shall be screened from view from the street and shall not be located between the street and the building.

“All mechanical equipment will be roof mounted. All equipment screened in accordance with this section.”

Staff note: This item is compliant with requirements.

- ✓ **Loading Zones and Garage Bays.** Garage doors and loading bays shall face an interior Lot line alley or service drive and shall not face a street or residential district unless buffered or screened in accordance with sections 4.3.4 and 4.3.5.

“There are no loading zones or garage bay that directly face a public street.”

Staff note: This item is compliant with requirements.

- ✓ **Signage.** Signage shall comply with the standards in section 4.6 and any applicable zoning district standards.

“There will be signage placed on the building, but none will be more than 100sq.ft.”

Staff note: Pursuant to UDO §2.41.3, the project is subject to a unified sign plan. Compliance with signage requirements will be determined under separate application.

IV. NOTEWORTHY PROJECT ELEMENTS FOR TOWN COUNCIL CONSIDERATION

The application would require the following deviations from UDO standards:

- §4.10.4. (B)(2) Building Dimensions – the width of buildings or building segments shall not be more than twice the building height. The building height is 29’-0” and the width of the front of the building is 99’-7”. The UDO standard restricts the width of the building or building segments to more than twice the height. The correct calculation based on a 29’ height calls for the building or building segments to be no more than 58’ wide across the front (29 x 2 = 58”). The exterior design does not include segmentation, and therefore the building is nearly 3.5 times as wide as it is tall and exceeds this standard.
- §4.10.4. (B)(3) Building Dimensions – building segments may be created through a combination of vertical features such as changes in material, building offsets, courtyards, changes in rooflines or architectural features that create the appearance of building segments. Building segmentation is not a specific requirement, but is directly related to the width to height ratio in the previous standard. Visual segmentation is an option that can assist the designer with meeting the previous standard and is relevant here only because the previous standard has not been met.
- §4.10.4. (C). Building Materials – the exterior finish of building walls shall be primarily comprised of brick. Cementitious horizontal lap siding, textured concrete masonry, cast stone and stucco may be used for accents, provided that they cover no more than twenty (20) percent of the exterior walls, exclusive of doors and windows. Wood and metal may be used as trim around doors and windows. The Permit Issuing Authority may approve:

- (1) The use of alternative building materials that establish an equivalent appearance and have equal or greater durability.
- (2) Alternative materials satisfying minimum building code standards on walls that are screened and not visible from any public street, walkway or residential zoning district.
- (3) Alternative materials satisfying minimum building code standards for structures located within a planned golf course development that are compatible with the development and the proposed location within the development.

The front and both sides of the proposed structure will be visible from the public street. These facades propose 100% aluminum composite panels for the exterior. Town Council may determine this material to be of equivalent appearance and have equal or greater durability to the standard requiring no less than 80% brick.

- §4.10.4. (D)(3). Windows – windows and doors shall comprise at least twenty-five (25) percent of street-facing building facades between the elevations of two (2) and ten (10) feet above the grade of the building entry. It is currently unknown if the design meets this standard. Staff recommends that the applicant clarify how the proposal addresses this item.
- §4.10.4. (E)(3). Awnings – awnings shall be canvas or material of similar appearance and flexibility unless otherwise approved by the Town Council. It is currently unknown if the design meets this standard. Staff recommends that the applicant clarify the material for the one awning shown on plans, and for any additional awnings that may be added to the design, to assist Town Council in determining if a deviation should be considered.

V. ATTACHMENTS:

1. Application
2. Deed
3. Applicant's Narrative and Architectural Compliance document dated May 27, 2022 *(please note that, though UDO sections are cited in this document, the language that follows the citations are taken from the Developer's Covenants and Restrictions document, and not the UDO)*
4. Elevation Drawings
5. Architectural Renderings
6. Site Plan
7. Developer's Declaration of Covenants, Conditions, Easements, Restrictions, Charges, Liens, and Reservations

VI. TOWN COUNCIL ACTION:

The Town Council should consider the purpose of an architectural compliance permit per UDO §2.26 and shall vote on whether the proposed application complies with the criteria per UDO §2.26 and the commercial building design requirements per UDO §4.10.4.

The Town Council may make one of the following motions or any alternative they wish:

I move to:

1. Approve AR-12-22;
2. Approve AR-12-22 with the following conditions:

3. Deny AR-12-22.

Architectural Compliance Permit

REQUIRED APPLICATION MATERIALS:

- _____ **Application fee** in the amount of **\$100.00** (gross floor area of 3,499 sq. ft. or less); or **\$300.00** (gross floor area of 3,500 sq. ft. or greater).
- _____ **Completed Application** signed by the applicant. Please do not leave anything blank and make sure that all of the information provided is correct.
- _____ **Appointment of Agent**, if applicable, signed by the property owner(s) and the agent.
- _____ **Deed** copy to provide proof of ownership and property boundaries.
- _____ **Written narrative**: It is the responsibility of the applicant to demonstrate compliance with **UDO §2.26.7**. Please also address **UDO §4.10.4** as part of the narrative.
- _____ **Renderings of elevations** (color).
- _____ **Site plan** if applicable.
- _____ **Electronic copy (PDF) of all application materials** submitted to plan@southernpines.net.

PLEASE SUBMIT ONLY ONE (1) COMPLETE SET OF ALL MATERIALS.

REVIEW AND APPROVAL:

1. **Staff review**: Planning staff will review the application and notify the applicant if additional information or materials are needed.
2. **Public hearing**: A public hearing will be held before the Town Council at its regular monthly meeting. (Please refer to the **Application Processing Timeline** to determine the hearing date.) In addition to the regular meeting, the applicant or a representative is expected to attend the Town Council agenda meeting the Wednesday prior to the regular meeting.
3. **Approval**: The Town Council may approve, conditionally approve or deny the application based on the criteria listed in **UDO §2.26.7**.
4. **Issuance of an Architectural Compliance Permit**: If the request is approved by the Town Council, an Architectural Compliance Permit setting forth any conditions of approval will be issued to the applicant.

PLANNING DEPARTMENT
TOWN OF SOUTHERN PINES
801 SE Service Road, Southern Pines, NC 28387
plan@southernpines.net (910) 692-4003 www.southernpines.net

Architectural Compliance Permit Application

Date Received: _____ Fee Paid: _____ Case No.: AR-____-____

TO THE TOWN COUNCIL OF THE TOWN OF SOUTHERN PINES:

I, the undersigned, do hereby make application for an Architectural Compliance Permit regarding for the following project:

Project Information:

Project Name: Waterworks Plus

Street Address: 1605 Central Dr, Southern Pines, NC 28387

PIN: 858300245709 Parcel ID: 00039185 Zoning: PD (PD-12-21)

Type of building (retail, office, etc.): Office Total square footage: 13,272

Applicant:

Name: Neal Smith Engineering, Inc.

Email: bbowles@nsengineering.com Phone: 910-695-8825

Mailing Address: 139 Pinehurst Avenue - Ste. C, Southern Pines, NC 28387

Legal Property Owner(s), if different from Applicant:

Name(s): PTAH, LLC

Email: andybleggi@gmail.com Phone: 910-639-1985

Mailing Address: 109 Arnette St, Aberdeen, NC 28315

Date: 05/02/2022

Bryan Bowles
Applicant

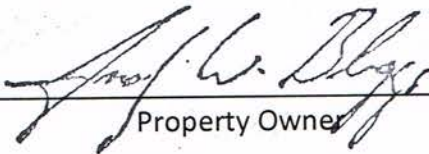
APPOINTMENT OF AGENT

The undersigned owner(s), PTAH, LLC, hereby appoint(s) Neal Smith Engineering, Inc. as the exclusive agent for the purpose of making an application to the Town of Southern Pines for an **Architectural Compliance Permit** for improvements to the property described in the attached application. The owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Town Council for the issuance of an **Architectural Compliance Permit** for improvements to the subject property; and
4. to act on behalf of the owner(s) without limitations with regard to any and all things directly or indirectly connected with or arising out of any application for an **Architectural Compliance Permit** under the Southern Pines Unified Development Ordinance.

This Appointment of Agent shall remain in effect until final resolution of the attached application.

Signed this 02 day of May, 2022.



Property Owner

Property Owner



Agent

UDO §2.26.7. Criteria

No Architectural Compliance Permit shall be approved unless the Town Council finds that:

- (A) The application is consistent with applicable Comprehensive Plan goals and policies;
- (B) The application substantially conforms with the applicable multi-family or commercial design standards and other applicable provisions of the UDO, including the purposes of the zoning district in which the property is located;
- (C) The application is consistent with applicable conditions of prior Development approvals; and
- (D) The development as proposed will be compatible with neighboring development and has mitigated potential conflicts.

UDO §2.26.9. Effect of Approval

- (A) The Architectural Compliance Permit shall expire unless a Building Permit is issued within one (1) year of approval.
- (B) Development activities subject to this section shall conform to the approved application and any conditions or restrictions. Any deviation from the approved Architectural Compliance Permit, unless approved in advance and in writing by the Planning Director, is deemed a violation of the UDO.

Please review UDO §2.26 in its entirety as well as UDO §4.10.4 for Building and Design Requirements (www.southernpinesudo.org).

For Registration Register of Deeds

Judy D. Martin

Moore County, NC

Electronically Recorded

March 12, 2019 4:45:55 PM

Book: 5099 Page: 508 - 509 #Pages: 2

Fee: \$26.00 NC Rev Stamp: \$0.00

Instrument # 2019003103

Mail after recording to: Richard Yelverton, Van Camp, Meacham and Newman
 This instrument was prepared by: Emily A. Tobias, Gill & Tobias, LLP
 Brief description for the Index: Water Works Plant, 1605 Central Drive, Southern Pines, NC
 Tax Stamps: \$ - (exempt per NCGS § 105-228.28)

**NORTH CAROLINA
 SPECIAL WARRANTY DEED
 (No Title Search by Drafting Attorney)**

THIS DEED made this the 5th day of March, 2019 by and between:

Grantor:
Town of Southern Pines
 A NC Municipal corporation
 P.O. Box 870
 Southern Pines, NC 28388

Grantee:
PTAH, LLC
 275 SW Broad Street
 Southern Pines NC 28387

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

The Grantor, for valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Southern Pines, McNeill Township, Moore County, North Carolina and more particularly described as follows:

Being all of that 28.8 acres, more or less, described in Plat Cabinet 18, Slide 25 Moore County Registry.

The property hereinabove described was acquired by Grantor by instruments recorded in Book 349, Page 474 and Book 2011, Page 349 Moore County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following exceptions:

Title to the property hereinabove described is subject to the following exceptions:
 (i) the lien for ad valorem taxes or other assessments for the current year; (ii) utility easements of record; and (iii) applicable zoning and municipal ordinances.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be signed in its corporate name by its Mayor, attested to by its Town Clerk, and its seal to be hereunto affixed, the day and year first above written.

Town of Southern Pines,
 a North Carolina municipality

ATTEST:

By: *W. David McNeill* (Seal)
 W. David McNeill, Mayor

Peggy Knight Smith (Seal)
 Peggy Knight Smith, Town Clerk

(town seal)

STATE OF NORTH CAROLINA
 COUNTY OF MOORE

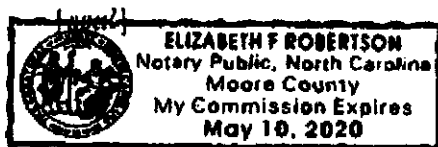
I, a Notary Public of the County and State aforesaid, certify that Peggy Knight Smith personally came before me this day and acknowledged that she is Town Clerk of Southern Pines and that by authority duly given and as the act of the Town of Southern Pines, the foregoing instrument was signed in its name by its Mayor, sealed with its town seal and attested by him as its Town Clerk.

Witness my hand and official stamp or seal, this 12 day of March, 2019.

My commission expires:

May 19, 2020

Elizabeth F. Robertson
 Notary Public





Neal Smith Engineering, Inc.

139 Pinehurst Ave. – Suite C

Southern Pines, NC 28387

Phone: (910) 695-8825 | Fax: (910) 695-8832

www.nseengineering.com | NC License No. C-1425



**NARRATIVE AND ARCHITECTURAL COMPLIANCE PER COVENANTS
FOR**

WATERWORKS PLUS

1605 CENTRAL DRIVE, SOUTHERN PINES

NSE PROJECT NO. 2112002

ZONED: PDD (PD-12-21, WATERWORKS PHASE 1, APPROVED 3-1-22)

MAY 2, 2022 – REVISED MAY 11, 2022 – REVISED MAY 27, 2022

NARRATIVE:

This is a multi-story building that will be located on the same property as originally owned Town of Southern Pines Waterworks building located across the street from the Town of Southern Pines Reservoir Park. This building will consist of a 7,943 square foot first floor and a 2,791 square foot second floor. The building will be pre-engineered metal building construction with Aluminum Composite Material (ACM Panels) skin on three sides and pre-engineered metal building wall panels on the rear.

ARCHITECTURAL COMPLIANCE – CHAPTER 4; SECTION 4.2.14 COVENANTS DEVELOPMENT AND DESIGN STANDARDS:

UDO 4.10.4(A)(1) - Primary Customer Entrance: The primary customer entrance for buildings not on a main development street shall be placed facing either the main parking lot associated with the structure or street side, or both as directed by the Planned Development Architectural Review Committee (PDARC) to best facilitate foot traffic for the establishment and/or the development. Buildings that face a primary development street, the primary customer entrance will face the primary street or as directed by the PDARC.

The main entrance to the building the is facing the main parking area associated with the building

UDO 4.10.4(A)(2) – Spacing and Distance between customer entries: Each building or structure will have at least one front customer entrance per "business" and one side/rear facing entrance place as need based on interior layout of the building or business occupying the space(s) A single front entrance is permitted if allowed as outlined in North Carolina Building Code (latest edition).

The main entrance centered in the building is facing the main parking area and have secondary entrances located on each side of the building.

UDO 4.10.4(B)(2) – Widths of building or building segments in other districts (not CB and DTO): Commercial buildings within the development shall not be more than 5.5x the building height measured at the highest point on the building or as demeaned acceptable by the PDARC.

The building height is 29.00ft to the top of the finished parapet.
 $29.00\text{ft} \times 5.5 = 159.50\text{ft} > 99.56\text{ft}$ (actual width of the building)

*UDO 4.10.4(B)(3) – Building segments created through a combination of features: Commercial building under consideration (single tenant or multi-tenant) will enter in from a single entry point as directed by Section UDO 4.10.4(A)(1) of this covenant. Exterior building elements/segments can be used, but not required, as needed for the over architectural appearance of the building and to provide a uniform look throughout the development. The **PDARC** can and will make recommendations on the exterior appearance to ensure a uniformity of all commercial buildings within the development.*

This building will used flat ACM panel on three sides and broken up by the use of doors/windows and metal panels on the rear that also use doors/windows to break up the look of the façade.

UDO 4.10.4(C) – Building Materials: Building Materials can be primarily composed of Brick, Aluminum Composite Material aka ACM (3mm minimum thickness with a fire-retardant code), Architectural Metal/Steel Panels (vertical or horizontal ribs), Insulated Metal Panels aka IMP (vertical or horizontal seams), Concrete Masonry, Stone, Cast Stone, Non-reflective Glass and Stucco. Wood, Metal, Concrete, Glass, and Stucco maybe used as accent pieces.

This structure will be primarily constructed of ACM panels on three sides and vertical ribbed metal panels on the rear.

UDO 4.10.4(D)(1) – Windows and Window Glazing: Windows can be ether can be glazed in non-reflective, clear glass or non-reflective tinted glass that accents the building other architectural elements.

Windows will be Low-E, non-reflective tinted, glass in accordance with NC Energy Conservation Code (latest edition)

*UDO 4.10.4(D)(3) – Windows and Doors (Public Street Facing Facades): – Windows and Doors shall comprise at least twenty-five (25) percent of the street facing building facades unless a written variance is granted by the **PDARC**.*

This building does not front on a "public" street.

UDO 4.10.4(E)(2) – Awnings: Awning are encouraged (not required) to be placed at all customer and employee entrances and shall maintain minimum clearance of seven feet (7ft) as measured from the lowest point of the awning and the finished sidewalk elevation directly under the location of the awning.

All main level "customer" entrances will have awnings and they will be above the 7ft requirements outlined in this section.

*UDO 4.10.4(E)(3) – Awning Materials: Awnings can be of canvas or metal that is architectural pleasing to the overall appearance of the building. Canvas material color and texture shall be approved by the **PDARC**.*

A single awning is being used at the primary entrance. The owner would like to reserve the right to add awning to the entry doors located on sides and the rear of the building.

UDO 4.10.4(F)(1) – Galleries and Arches: Galleries and Arches are allowed within the development and allowed to encroach onto the sidewalks.

No galleries or arches are planned for this structure

UDO 4.10.4(F)(2) – Galleries and Arches Clearance: Clearance of twelve feet (12ft) minimum shall be maintained between the lowest point of the ceiling and the finished material directly below the ceiling.

No galleries or arches are planned for this structure

UDO 4.10.4(G)(1) – Parapets: Parapets are allowed within the development. Parapet heights shall not be less than required to meeting North Carolina Building Code (latest edition) and/or OSHA requirements for fall protection.

Parapet are planned for this building to a height just above the roof and will maintain a minimum distance to all roof top equipment front back of parapet in accordance with OSHA requirements for fall protection.

UDO 4.10.4(G)(2) – Changes in Parapet Heights: Changes in parapet heights are encouraged to provide architectural features to commercial buildings but are not required.

No change I parapet height is planned for this building.

UDO 4.10.4(G)(3) – Roofing Materials: Asphalt Shingles, Standing Seam (non-reflective), Non-Reflective Metal can be used on all roof and trim areas, and Ethylene Propylene Diene Terpolymer roofing aka EPDM.

Standing seam roof (non-reflective) is planned for this building.

*UDO 4.10.4(H) Mechanical Equipment: Mechanical equipment shall be placed on the roof of all commercial buildings, if possible, and shall be screen from public view by use of parapets or placed in such a manner that they cannot be seen from surrounding streets or parking areas. The use of ground mounted equipment shall be approved by the **PDARC** and if approved shall be screened with materials as outlined in UDO 4.10.4 (C) – Building Materials of this covenant.*

All mechanical equipment will be roof mounted. All equipment screened in accordance with this section.

*UDO 4.10.4(I) – Loading Zones and Garage Bays: Garage bays and loading zones shall not face public streets or residential areas unless they are screened by materials outlined in UDO 4.10.4(C) of this covenant or my means of vegetation that is directly approved b by the **PDARC**.*

There are no loading zones or garage bay that directly face a public street.

*UDO 4.10.4(J) – Signage: Building signage shall be allow on each side of the building that fronts on a public street or parking area. Each sign shall not exceed 100 square feet in area and if they are multiple tenants, then the 100 square feet can be split between the tenants within the building for each side. The overall appearance of the signage shall be approved by the **PDARC** prior of ordering of sign.*

There will be signage placed on the building, but none will be more than 100sq.ft.

UDO 4.10.6 – Large Scale Retail Development

UDO 4.10.6(A) – Purpose: No deviation requested for section

This can be achieved with an upfit permit later if required.

UDO 4.10.6(B) – Applicability: This shall apply to any existing or new building having a single floor square footage equal to or greater than 25,000 square feet or building have a total gross square footage equal to or exceeding 25,000 square feet.

This can be achieved with an upfit permit later if required.

UDO 4.10.6(C)(1) – Utility Design – On-site underground water and sanitary utilities will be designed to accommodate large scale retail development. All power requirements will be in accordance with utility company providing power to the development. Power for existing building(s) that will be redeveloped for large scale retail will be resized & coordinated with power company.

All on-site utilities will be or have been designed to accommodate this requirement.

UDO 4.10.6(C)(2) – Entries: Entries for new building shall be spaced no further than one-hundred and fifty (150) feet. Existing building entries shall be modified as needed to meet or exceed the exit requirements as outlined in the North Carolina Building Code (latest edition) for occupancy load projected for the large-scale retail development. The building (new or existing) entries shall be clearly defined, visible entrance, providing access from the front of the building and shall have an awning or canopy over the primary access. Display windows are allowed within the development.

This can be achieved with an upfit permit later if required.

UDO 4.10.6(C)(3) – Building Materials: Buildings materials shall meet the requirements of UDO 4.10.4(C) – Building Materials of this covenant.

This current building façade meets this requirement.

UDO 4.10.6(C)(4) – Building Articulation: Building articulation will meet the requirements of UDO 4.10.4(B)(2) and UDO 4.10.4(B)(3) of this covenant.

This current building meets the requirement of this section.

UDO 4.10.6(C)(5)(A) – Rooflines: Rooflines for new large-scale retail development buildings shall vary in height to accurately define the entry locations of each retail space located in the same building. Hips, gables, or changes in parapet heights can be used to meet this requirement for new buildings. Existing buildings set for redevelopment in large-scale retail are not required to be modified to meet this requirement.

This building can be modified to meet this requirement.

UDO 4.10.6(C)(5)(B) – Rooflines: No deviation requested

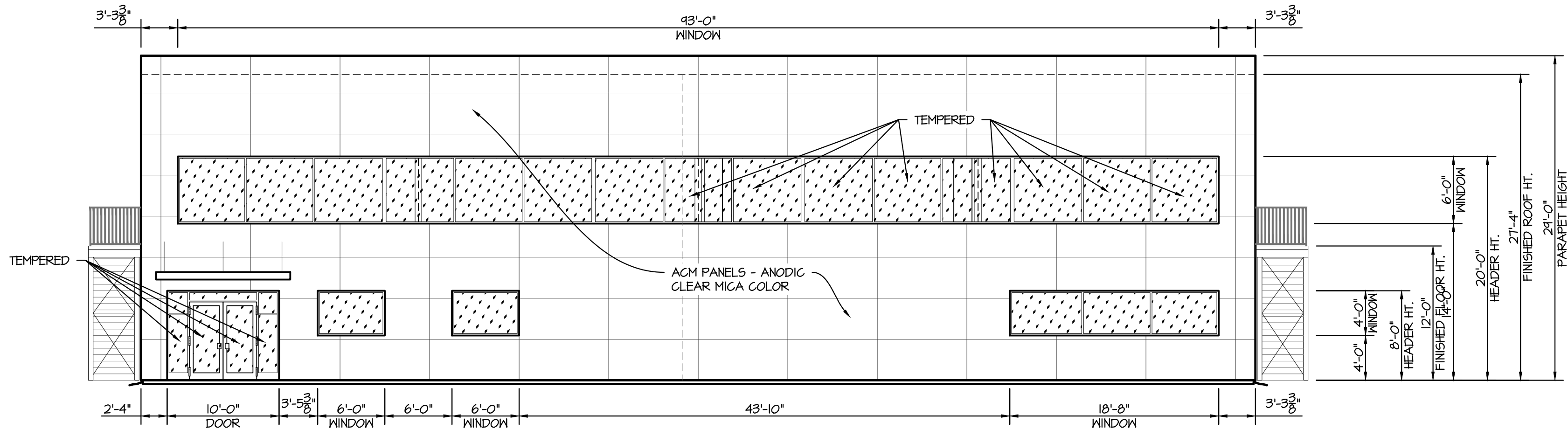
This building, once constructed, will meet the requirements of this section.

UDO 4.10.6(C)(5)(C) – Rooflines: Parapets when used shall meet the requirements of UDO 4.10.4(G)(1) – Parapets of this covenant.

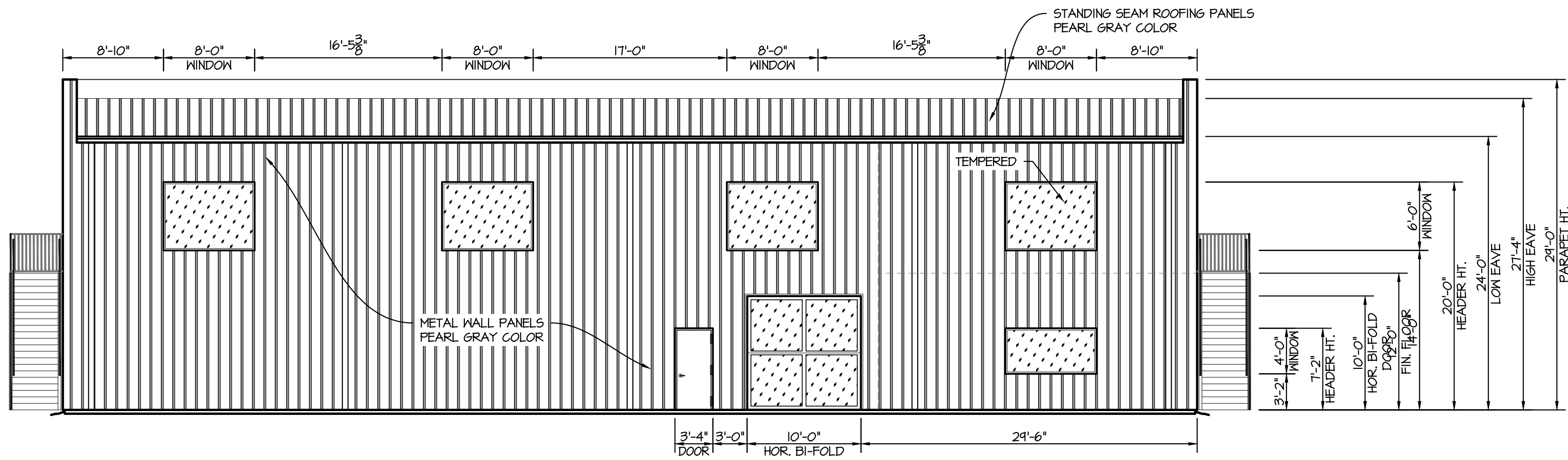
Parapets on this building will meet the requirement set forth in the covenants.

If you any additional questions or concerns, please feel free to contact us at any time.

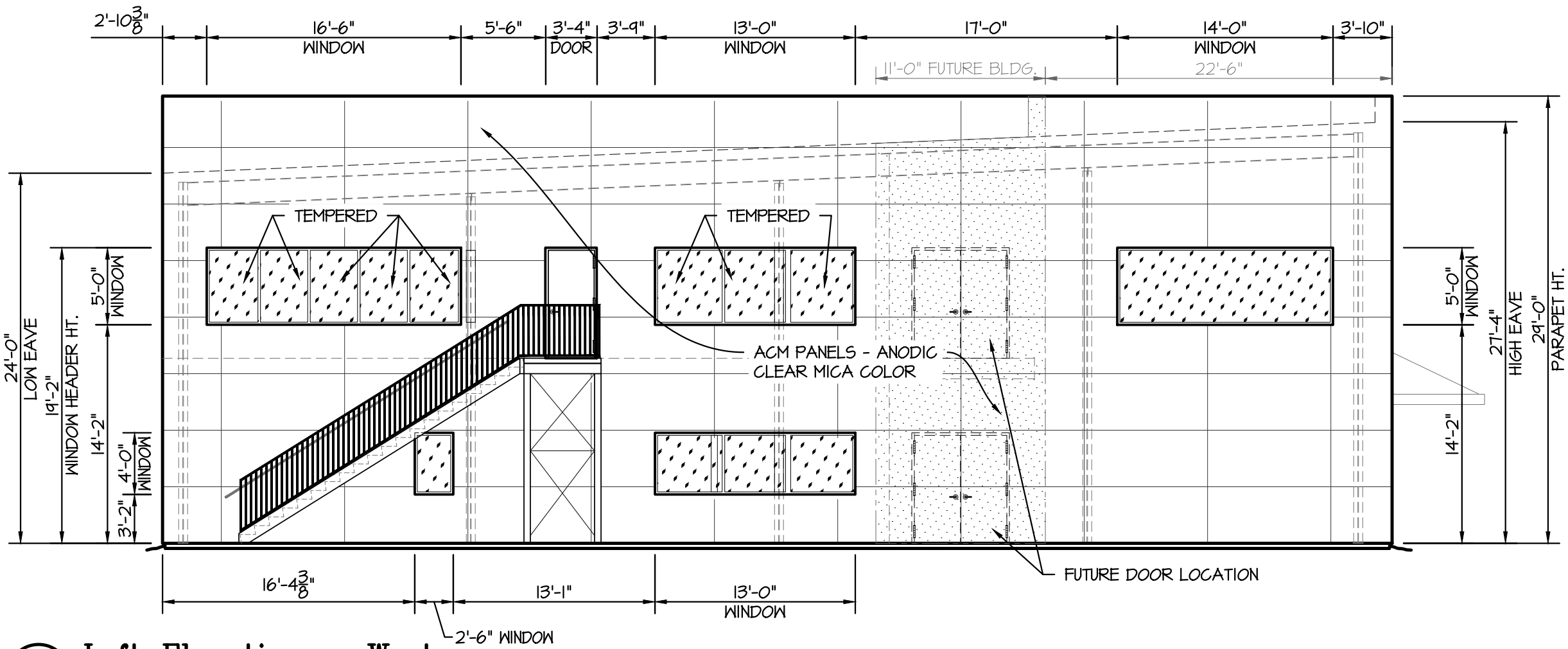
Sincerely,
NEAL SMITH ENGINEERING, INC.



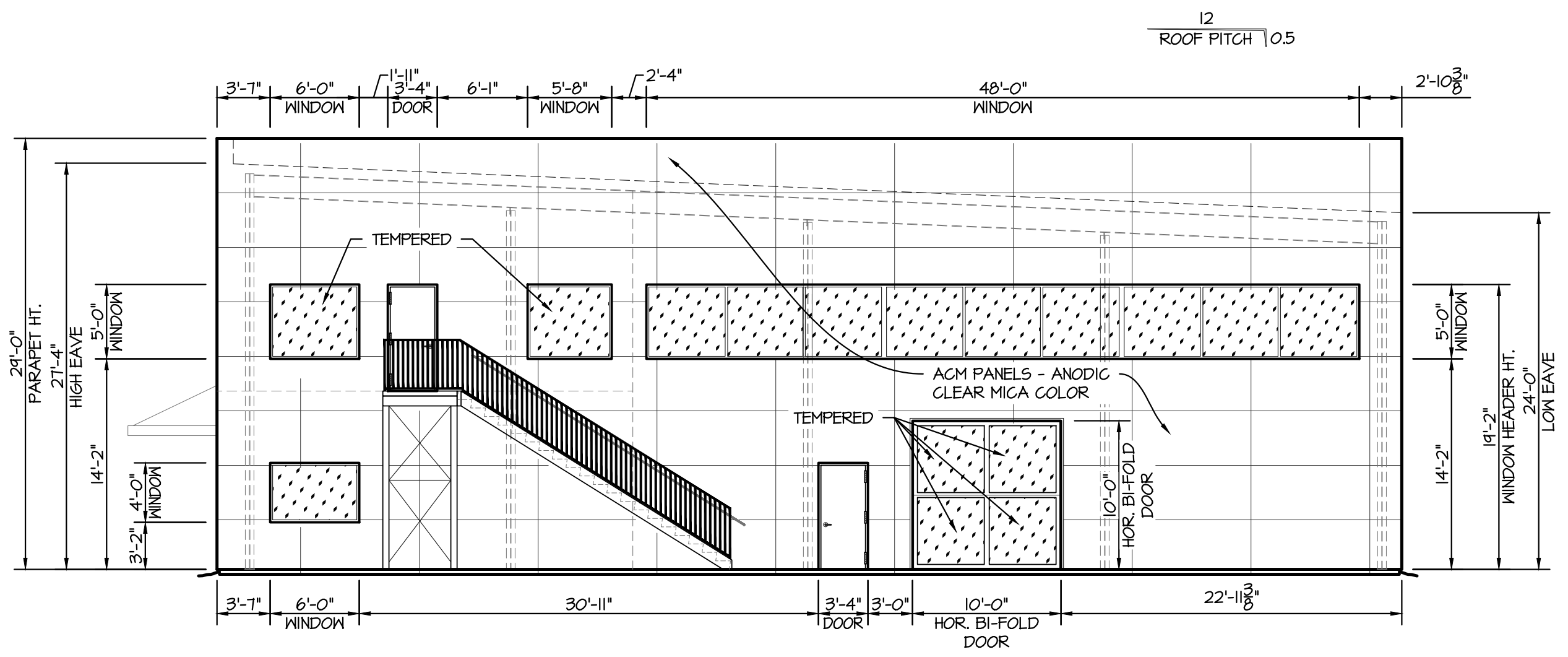
1 Front Elevation - South
G1.1 1/8" = 1'-0"



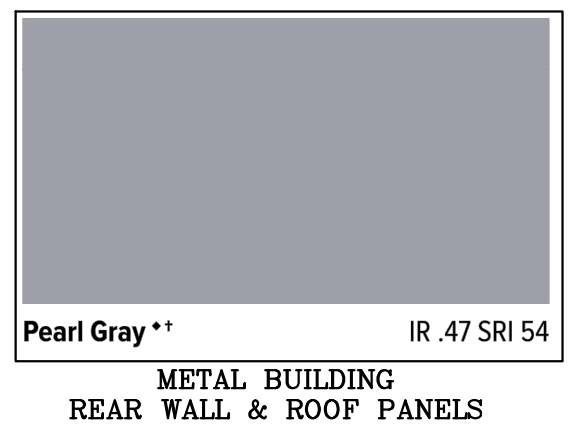
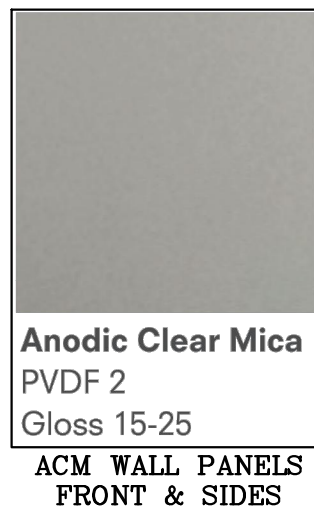
2 Rear Elevation - North
G1.1 1/8" = 1'-0"



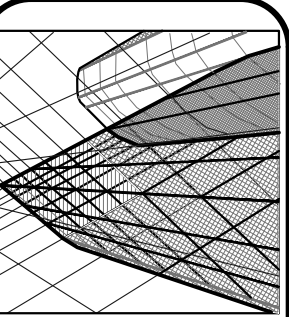
3 Left Elevation - West
G1.1 1/8" = 1'-0"



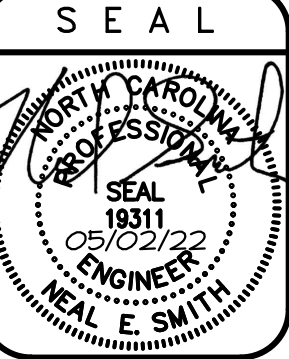
4 Right Elevation - East
G1.1 1/8" = 1'-0"



REVISIONS

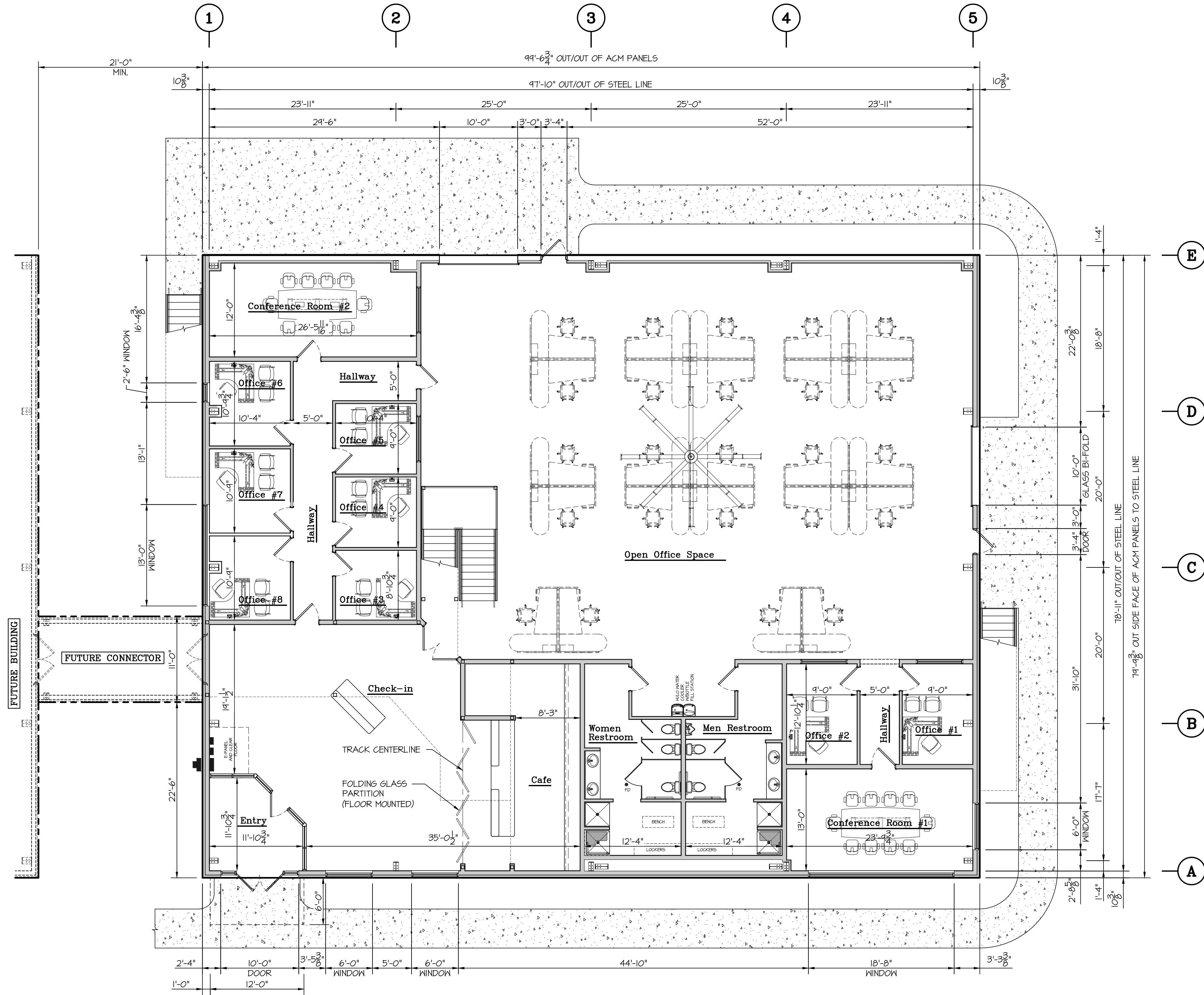


Neal Smith Engineering, Inc.
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Fax: (910) 695-8832
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PRELIMINARY
Do not use for
construction

DRAWN BY: BKB
SCALE: As Noted
DATE: 05/02/22
JOB NUMBER: 2112002
DRAWING KEY: G1.1



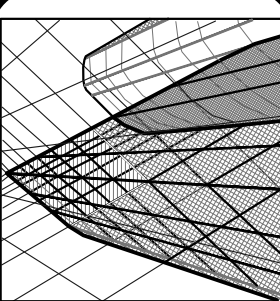
1 Floor Plan - Main Level
G2.1 1/8" = 1'-0"

IMPORTANT NOTE:
ALL INTERIOR DIMENSIONS ARE
FINISHED WALL TO FINISHED WALL

WATERWORKS PLUS
Southern Pines, NC

FLOOR PLAN - MAIN LEVEL

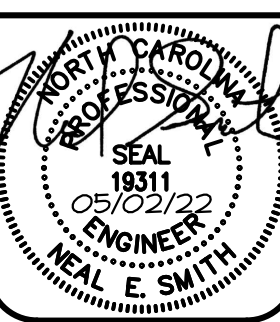
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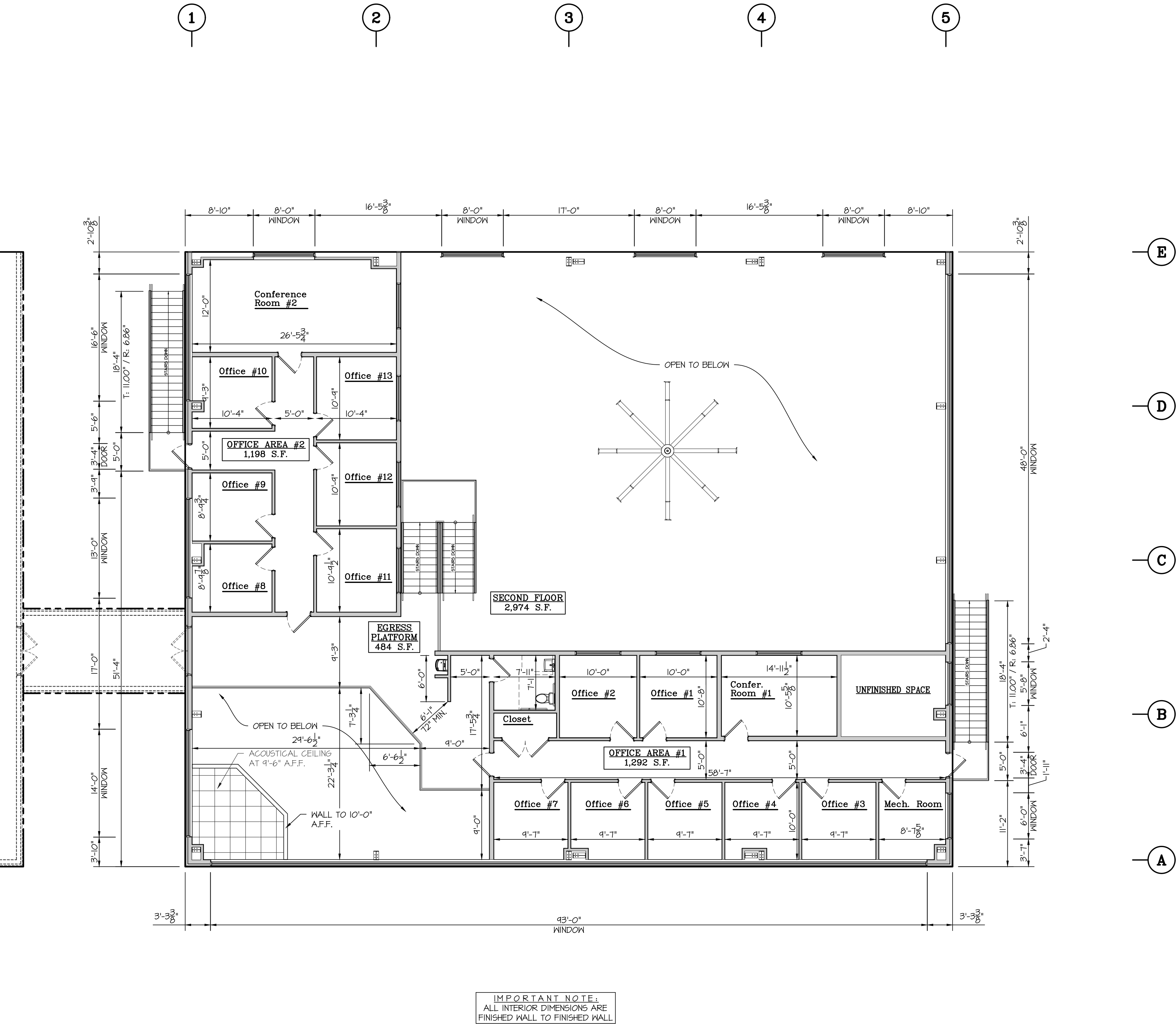
SEAL



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SCALE:
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DRAWING KEY:
G2.1

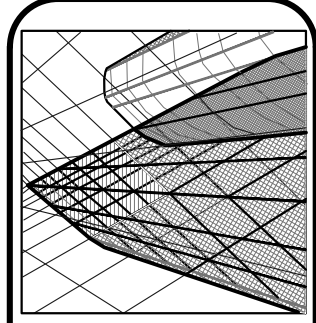


1 Floor Plan - Upper Level
G2.2 1/8" = 1'-0"

WATERWORKS PLUS
Southern Pines, NC

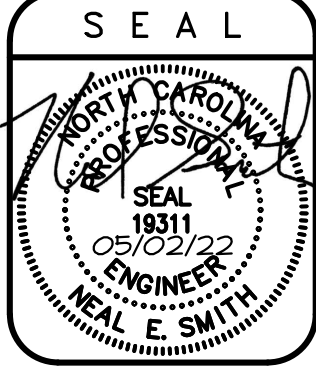
FLOOR PLAN - UPPER LEVEL

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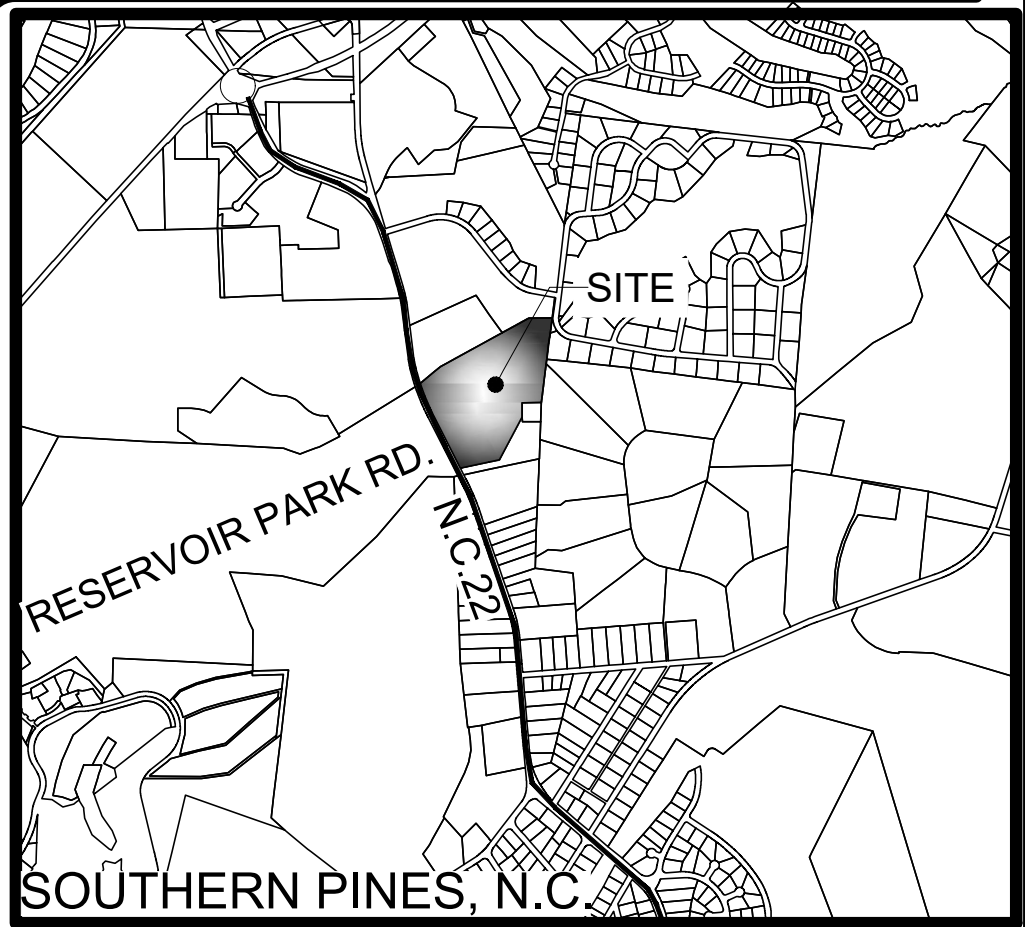
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SCALE: As Noted
DATE: 05/02/22
JOB NUMBER: 2112002
DRAWING KEY: G2.2

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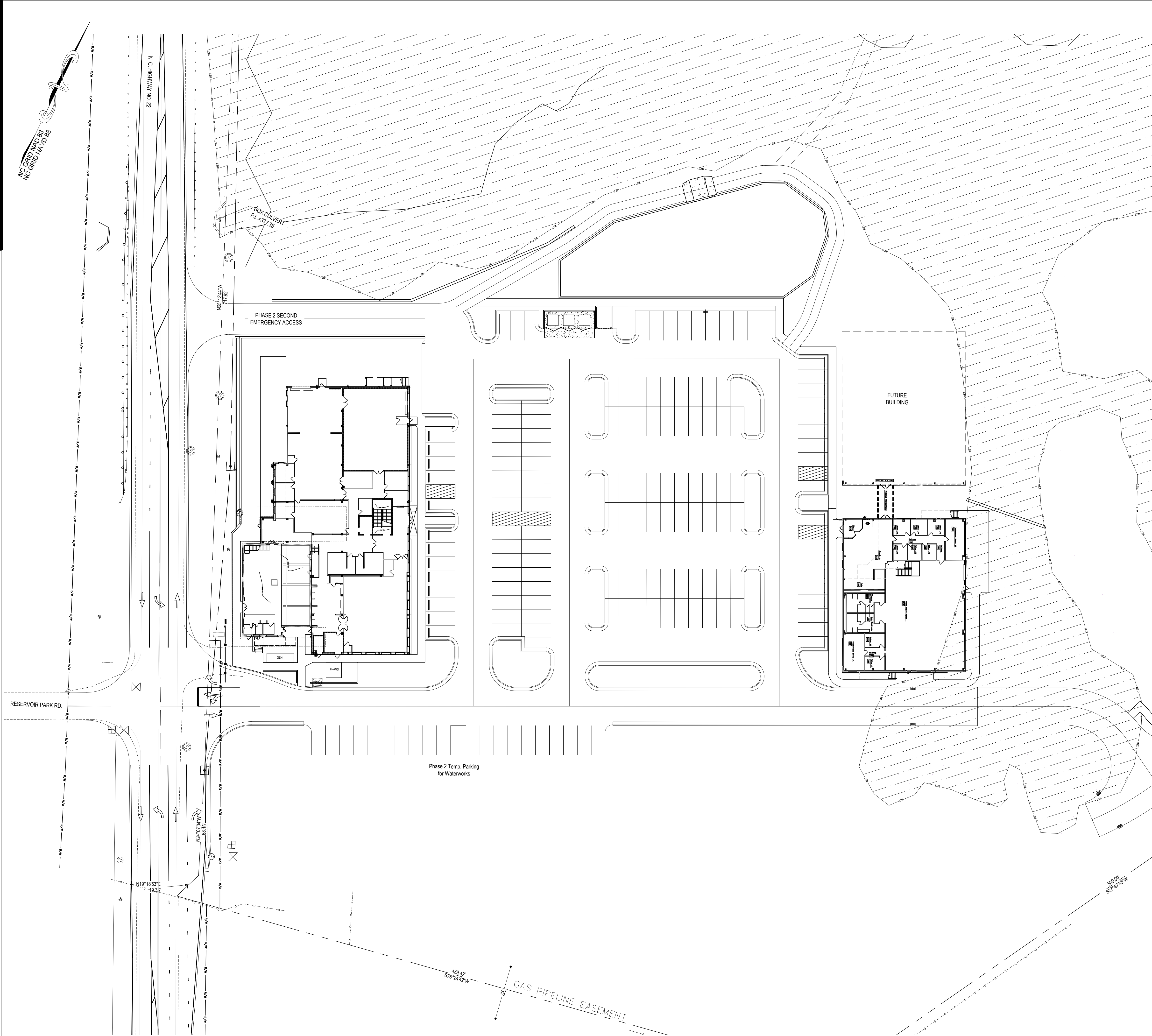






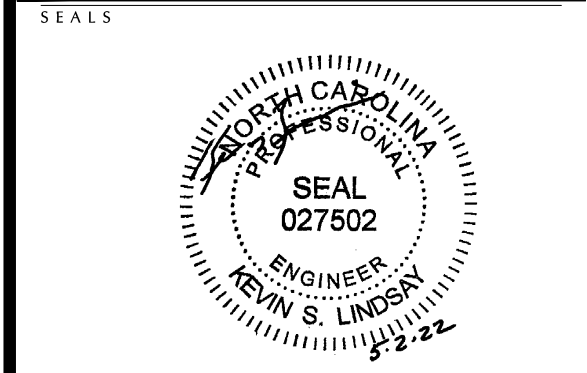
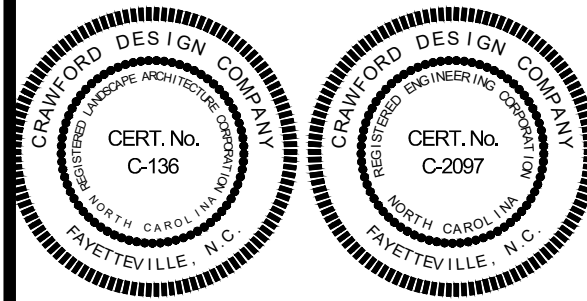
VICINITY MAP (1" = 2000')

SITE NOTES



LANDSCAPE
ARCHITECTURE
.....
ENGINEERING
.....
PLANNING

Landscape Architecture ♦ Fayetteville, NC
Civil Engineering ♦ Southern Pines, NC
230C W. Pennsylvania Ave. ♦ Southern Pines, NC 28387
Voice: 910-725-1107
www.crawforddsn.com



FOR PERMITTING

REVISIONS

PTAH, LLC
PTAH-WW-SNC

WATERWORKS REVISED PHASE 2
PRELIMINARY DEVELOPMENT PLAN (PDP)

PROJECT DETAILS
Project Manager: KSL
CAD Technician: RFN/GER
Reviewed / Approved By:
Project Number: 17028

SCALE: 0 30 60
Full Scale: Horiz.: 1" = 30'
Half Scale: Horiz.: 1" = 60'

ISSUE DATE: 03/25/2022

SHEET NUMBER

C2.0

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, RESTRICTIONS, CHARGES, LIENS, AND RESERVATIONS WATERWORKS

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, RESTRICTIONS, CHARGES, LIENS AND RESERVATIONS made this May 27, 2022, by PTAH, LLC, a NC limited liability company (hereinafter referred to as “Declarant”), its successors and assigns concerning the planned community to be known as **WATERWORKS**.

WITNESSETH

WHEREAS, it is the intent of the Declarant to establish a general plan and uniform scheme of development and improvement of property it owns or will acquire as a planned Commercial and Residential community (the “Planned Community”) together with streets, roads, footways, open spaces, entrances, drainage facilities, access easements, site lighting and signage, and any recreational area(s), common area(s) and any other common properties shown on any recorded plat of such real property of a portion thereof for the benefit of the Planned Community; and,

WHEREAS, Declarant desires to insure the attractiveness of the Planned Community and to prevent any future impairment thereof, to provide for the maintenance and upkeep of the Common Elements, as hereinafter defined, to prevent nuisances, to preserve, protect and enhance the Common Elements of the project; and to this end desires to subject the real property described herein, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges, liens, reservations and other provisions hereafter set forth, each and all of which is and are for the benefit of the Planned Community and each property owner within the Planned Community; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation, protection and enhancement of the property values, amenities and opportunities within the Planned Community in order to contribute to the personal and general health, safety and welfare of the property owners and residents therein, to provide for the maintenance of all Common Elements, to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Elements and administering and enforcing this Declaration, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has caused, or shall cause to be incorporated under North Carolina law, WATERWORKS Property Owners Association, Inc. (the “Association”) as a nonprofit corporation for the purpose of exercising and performing the aforesaid functions, and as more specifically provided herein;

NOW, THEREFORE, Declarant hereby declares that it is the expressed purpose, desire and intention of Declarant and Declarant hereby does submit the Existing Property (as herein defined), including any improvements to be located thereon, so that the Existing Property shall be held, sold, conveyed and occupied subject to the provisions, covenants, conditions and restrictions contained herein, which shall run with the real property and be binding on all parties having any right, title or interest in the Existing Property or any part thereof, and their heirs, administrators, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1

DEFINITIONS

The following words and terms when used in this Declaration and Bylaws and any supplemental declaration and Bylaws (unless the context shall clearly indicate otherwise) shall have the following meanings:

1. **Architectural Review Board (abbreviated "ARB.")** The term "Architectural Review Board" means and refers to a committee of five (5) individuals initially designated and appointed (and removed) by the Declarant to carry out the duties herein assigned to said Architectural Review Board who shall serve at the pleasure of the Declarant until the end of the Declarant Control Period.
2. **Assessments.** "Assessments" means the same as Common Expenses levied by the Association, as more specifically provided in Article 6.
3. **Association.** "Association" means WATERWORKS Property Owners Association, Inc, a North Carolina nonprofit corporation, its successors and assigns.
4. **Bylaws.** "Bylaws" means such governing regulations as are adopted for the regulation and management of the Association, including such amendments thereof as may be adopted from time to time and recorded. The initial Bylaws are attached hereto as Schedule A.
5. **Board.** "Board" means a board of natural individuals of the number stated in the Bylaws, who need not be Owners, which constitute the Board of Directors of the Association and who shall manage the business, operations and affairs of the Association on behalf of the Members.
6. **Common Elements.** "Common Elements" means the common areas and facilities owned by the Association and dedicated to the common use and enjoyment of the Owners, or such other easements and areas for which the Association has maintenance responsibility, as more specifically provided in Article 7.
7. **Common Expenses.** "Common Expenses" means the expenses of the Association in providing for the acquisition, construction, management, maintenance and care of Association Property, the Common Elements and the Association's maintenance obligations as more particularly provided in Article 6.
8. **Declarant.** "Declarant" means PTAH, LLC, and its successors and assigns in interest in Townhouses on Bennett, if such successor or assign should acquire more than one undeveloped Homesite from the Declarant for the purpose of development, and PTAH, LLC affirmatively assigns in the conveyance to the acquirer of the undeveloped Commercial Lot (s) or Homesites some, or all, of the Declarant's rights as a Declarant.
9. **Declarant Control Period.** "Declarant Control Period" means that period of time that Declarant may appoint and remove a majority of the Board of Directors of the Association without consent of any Owner; which shall extend so long as Declarant owns any Lot in the Development Area; or, by voluntary relinquishment or assignment, whichever event shall first occur.
10. **Declaration.** "Declaration" means this instrument and any amendments thereto by which the Planned Community is created and expanded.
11. **Development Area.** "Development Area" means that property owned by Declarant as recorded in Book _____, Page _____, in the Office of the Register of Deeds of County, North Carolina; or, any other tract(s) or parcel(s) that are contiguous to the Development Area and which may be subsequently acquired by the Declarant.
12. **Development Rights.** "Development rights" means any right or combination of rights reserved by the Declarant in this Declaration (i) to add real estate to the Planned Community; (ii) to create lots, Common Elements, or Limited Common Elements within the Planned Community; (iii) to subdivide Commercial Lot (s), Homesites or convert Commercial Lot (s) Homesites into Common Elements; or (iv) to withdraw real estate from The Planned Community.
13. **Dispose or Disposition.** "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a Commercial Lot (s) Homesite, but does not include the transfer or release of a security interest.
14. **Development Parcel(s).** "Development Parcel(s)" means those unimproved parcels or tracts of land conveyed by the Declarant to third parties under this Declaration permitting the division of such parcel or tract into smaller land units as Commercial Lot (s), Homesites or Residence Units or for development as a Cluster Residential Tract. Any such conveyance shall contain a reference to this subsection.
15. **Drainage.** "Drainage" means the removal of surface water or ground water from land by drains, grading or other means, and includes control of runoff to minimize erosion and sedimentation during and after construction or development and likewise includes undertaking those measures necessary for water supply preservation for prevention or alleviation of flooding.
16. **Foreclosure.** "Foreclosure" means the exercise of the rights of the holder of any mortgage or other instrument creating a security interest in a Commercial Lot (s), Homesite or Residence Unit.

17. **Commercial Lot (s) and/or Homesite(s).** “Commercial (s)” means any improved or unimproved plot of land designated with an Identifying Number upon any recorded subdivision map of a portion of the Planned Community. “Homesites(s)” means any unimproved plot of land designated with an Identifying Number upon any recorded subdivision map of a portion of The Planned Community. A Homesite shall be intended for use as the site for one (1) single family detached dwelling unit. A Homesite shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently completed to reasonably permit habitation thereof and will thereafter be subject to assessments as improved property as a Residence Unit.
18. **Identifying Number.** "Identifying number" means a symbol on the recorded plat of any phase of the Property that identifies only one Commercial Lot or Homesite in The Planned Community.
19. **Improvements.** “Improvements” means all structures or construction of any kind that alters the initial physical appearance of a Commercial Lot or Homesite , including, without limitation, any building, outbuildings, roads, driveways, parking areas, retaining walls, loading areas, utilities, lawns, fence, wall, sign, paving, grading, parking and building additions, alteration, screen enclosure, pool ,sewer, drain, disposal system, decorative building, landscaping or landscape device(including existing and planted trees and shrubbery) or object together with any construction work or treatment done or applied to a Commercial Lot or Homesite in connection therewith.
20. **Lease.** “Lease” means all leases, subleases and rental contracts, whether oral or written.
21. **Limited Common Element.** "Limited common element" means a portion of the Property allocated by the Declaration for the exclusive use of one or more but fewer than all of the Commercial Lots or Homesites. There are no Limited Common Elements in the Existing Property. It is anticipated that the future development of new Regimes may allocate Limited Common Elements as part of a Supplemental Declaration affecting Development Parcels.
22. **Majority.** “Majority” means any number of votes which is greater than fifty percent (50%) of the applicable votes.
23. **Master Plan or Development Plan.** “Master Plan” or “Development Plan” means the drawings which represent the conceptual research plan for the future development of The Planned Community, held by the Declarant and made available for inspection by prospective land purchasers. Since the concept of the future development of the developed and undeveloped portions of The Planned Community retained by, and remaining in the Declarant’s ownership, is subject to continuing revision and change at the discretion of the Declarant, present and future references to the “Master Plan” by the Declarant, its employees or agents shall be reference to the latest revision thereof. In addition, no implied reciprocal covenants shall arise with respect to lands which have been retained by the Declarant for future development restricting their uses. The Declarant shall not be bound by any development plan, use or restriction of use shown on any Master Plan, and may at any time change or revise said Master Plan. None of the proposed facilities reflected on any Master Plan need be built. The final development plan and the construction of any proposed facilities is dependent on market conditions and the economic viability of the sale of Homesites in The Planned Community.
24. **Member.** “Member” means every person or entity who holds membership in the Association. Declarant shall be a Member of the Association from and after the date of recordation of this Declaration.
25. **Mortgage.** “Mortgage” includes both a deed of trust or a mortgage or any instrument creating a security interest in a Commercial Lot, Homesite or Residence Unit.
26. **Mortgagee.** “Mortgagee” includes any grantee in or holder of a Mortgage, or the beneficiary of a Deed of Trust, or other similar security interest.
27. **Occupant.** “Occupant” means any person who occupies, or who has the right to occupy, all or a part of any Commercial Lot, Homesite or Residence Unit which is a part of the Property, whether such occupancy or right of occupancy is based on ownership, lease, license or easement.
28. **Offensive or Noxious Activity.** “Offensive or Noxious” activity or behavior includes but not be limited to a public nuisance or nuisance per se and shall also include any behavior or activity which is inconsistent with both the pleasurable use of The Planned Community by a majority of the residents and their reasonable expectations of enjoying their property and the available amenities and natural surroundings free of boorish, rude, excessively noisy, crude, tasteless behavior, flashing lights, racing vehicles, radio, hi-fi or electronic music distractions, etc., or other similar behavior curtailing the pleasure of use of the natural environment and Common Elements of The Planned Community. Musical or other entertainment, concerts, festivals, competitions or shows conducted under permit from the Declarant shall not constitute offensive or noxious activity or behavior unless such permit is withdrawn by the Declarant.
29. **Owner or Unit Owner.** The term “Owner” or “Unit Owner” means a person who has acquired by disposition fee simple title to any Commercial Lot or Homesite but shall not include a person having such an interest merely as security for the performance of an obligation. The Declarant and any mortgagee are excluded from being an

“Owner” unless and until such Declarant and mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

30. **Person.** "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.
31. **Planned Community.** "Planned Community" means real estate with respect to which any person, by virtue of his ownership of a Commercial Lot or Homesite, is expressly obligated by this Declaration to pay real property taxes, insurance premiums, or other expenses to maintain, improve or benefit other Commercial Lots, Homesites or other real estate described in this Declaration. The term Planned Community is used interchangeably with the term “Waterworks Development” within this Declaration.
32. **Property.** “Property” means the Existing Property as defined in Article 2.1 and any additions or replacements that may be brought by the Declarant, at its option, within the scheme and jurisdiction of this Declaration, including the Commercial Lots, Homesites and the Common Elements, together with the buildings and all other improvements thereon, and all easements and rights appurtenant thereto, which are now or hereafter used in connection with the ownership and use of said land and improvements.
33. **Recorded.** “Recorded” means made a matter of public record by filing same in the Office of the Register of Deeds or Clerk of Court for Moore County, North Carolina, the filing place to be determined by the type of document to be recorded.
34. **Regime.** “Regime” means a section or portion of the Property brought within the scheme of this Declaration for the purposes of levying assessment upon the Commercial Lots, Homesites and Owners. The Property within a Regime shall consist of Commercial Lots and Homesites, together with any Limited Common Elements, which have similar characteristics and expenses for maintenance and operation. All Owners of Commercial Lots and Homesites within a specific type of Regime, as designated by Declarant, shall be assessed the same annual amount for assessment established pursuant to the provisions herein. Different Regimes may, however, at Declarant’s sole discretion, have different assessments due to the presence of Limited Common Elements within that Regime, for example Commercial Private and Common Parking areas.
35. **Commercial Unit.** “Commercial Unit” means the improvements erected on a Commercial Lot for the use and occupancy of one single commercial tenant and/or owner and any exterior steps, garage, parking space, patio, deck, driveway, balcony, storage facilities, terraces, verandas and landscaping located on the Commercial Lot, and the Commercial Lot upon which said building and improvements are located.
36. **Residence Unit.** “Residence Unit” means the improvements erected on a Homesite for use and occupancy as one single family dwelling and any exterior steps, garage, parking space, patio, deck, driveway, balcony, storage facilities, terraces, verandas and landscaping located on the Homesite, and the Homesite upon which said building and improvements are located.
37. **Security Expenses.** “Security Expenses” means all fees and expenses incurred by the Association for any security purpose associated with the Planned Community, including but not limited to erection, purchase and maintenance of gates, perimeter fencing, vehicles, equipment, personnel or contracts with providers of such services, equipment and facilities.
38. **Shall.** “Shall” indicates a mandatory requirement, condition, or obligation; in contrast, the term “may” indicate a permissive action.
39. **Special Declarant Rights.** "Special Declarant Rights" means rights reserved for the benefit of the Declarant which may not be altered by the Members, including, but not limited to rights (I) to complete or modify improvements indicated on plats and plans filed with the Declaration; (ii) to exercise any Development Right; (iii) to maintain sales offices, management offices, signs advertising The Planned Community, and models; (iv) to use easements through the common elements for the purpose of making improvements within The Planned Community or within real estate which may be added to The Planned Community; (v) to have access over, upon and through the Development Area to any unsold Lots or undeveloped areas within the Planned Community or property owned by the Declarant adjacent thereto, (v) to appoint or remove any officers or executive board members of the Association during the period of declarant control, all of which Special Declarant Rights are more fully set forth herein.
40. **Structure.** “Structure” means any construction, object, projection or piece of work artificially built up or composed of parts joined together in some definite manner, which is erected or shaped on the Property, including but not limited to buildings, fences, walls, bridges, signs, blinds, tennis courts, swimming pools, tents, gazebos, greenhouses, garage facilities or other outbuildings, signs, abutments, ornamental projections, exterior fixtures, shaped earth as a masonry structure, lights, or any device which might obstruct or interfere with the quality of a view from the property.
41. **Use of Land or Intended for Use.** “Use of Land” or “Intended for Use” means the use designated in the deed of conveyance of a parcel or space or by separate declaration of covenants designating the use for which any

particular parcel of land is restricted to in such declaration incorporated by reference to a particular recorded declaration of covenants in deeds by which the Declarant has conveyed such land. Reference to “uses” of land, or description of parcels on maps, master plans, and promotional material shall not constitute a designation of use for purposes of this Declaration nor shall such reference create any obligation for the Declarant.

42. **Use or Used for Commercial Purposes.** “Use or Used for Commercial Purposes” means to be used as one’s commercial or normal and customary place of performing business and shall include any use for business or commercial purposes.
43. **Use or Used for Residential Purposes.** “Use or Used for Residential Purposes” means to be used as one’s residence or normal and customary place of abode and shall not include any use for business or commercial purposes. The use of a portion a Residence Unit as a home office shall be considered a residential use: (1) if such use does not create more than very occasional customer or client traffic to and from the Residence Unit and is otherwise permitted by any applicable Zoning Ordinance; (2) if the Residence Unit’s address is not held out or advertised in any way as a business address; (3) no sign, symbol, logo, or name plate identifying such business is affixed to the exterior of the Residence Unit or visible from the exterior of the Residence Unit; and (4) except where the approval of the Association has been given to such use.
44. **Utility Area.** “Utility Area” means those tracts or parcels of the properties set aside by Declarant, at its sole option, for maintenance buildings, and the installation of utility systems to serve the remainder of the Property. Utility systems shall include, but not be limited to, water, sewer, telephone, electricity, cable and gas. The Utility Areas may be conveyed by Declarant to a municipality or to public or private utility companies that operate and maintain such systems. Utility Areas shall be accessible by easements of ingress, egress and regress reserved herein over the Property if not located on a public or private street. At the option of the Declarant, any or all of a Commercial Lot or Homesite may be used as a Utility Area.

ARTICLE 2

PROPERTY SUBJECT TO DECLARATION

- 2.1 **Existing Property.** The Property which is and shall be held, transferred, sold, conveyed, given, donated, leased and occupied under this Declaration and within the jurisdiction of the Association, is located in McNeill Township, Moore County, North Carolina, and is more particularly described as “WATERWORKS”, as shown on plat thereof recorded in the Office of the Register of Deeds of Moore County, North Carolina in Plat Cabinet 18 Slides 25.
- 2.2 **Additions to Existing Property.** Additional land within the Development Area of any tract that Declarant may acquire that is contiguous to the Development Area may be brought within the scheme and operation of this Declaration and the Jurisdiction of the Association by the Declarant without the consent of the Association or any Member in the following manner: The area of the Property subject to this Declaration maybe increased by filing with the Register of Deeds of the jurisdiction referred to above, plats of additional phases within the Development Area and the subsequent conveyance of any Commercial Lot or Homesite by the Declarant in such phase by reference to such plat and this Declaration, which shall then extend the scheme of the Declaration to all property shown on the plat of that phase, except for any areas marked "Reserved" or such areas of similar nomenclature. No other land within the Development Area or vicinity of the Development Area shall be subject to this Declaration unless the provisions of this section are complied with, it being intended that this Declaration may not be construed or considered as a scheme for the development of any land other than that shown on the then existing and recorded plats for each phase by which at least one of the Commercial Lots or Homesites shown thereon has been conveyed by reference to such plat and this Declaration.
- 2.3 **Supplemental Declaration.** In addition the Declarant reserves the right to file Supplemental Declarations with the development of each successive phase, or as amendment to the Existing Property, which may contain such complementary additions and modifications of this Declaration as may be necessary or convenient, in the sole judgment of the Declarant, to reflect and adapt to any difference in character of the those properties (for example, a Regime developed on a Cluster Residential Tract, or that includes Limited Common Elements), and as are not inconsistent with the scheme of this Declaration.

ARTICLE 3

USE OF PROPERTY

- 3.1 **Use Restrictions.** The use of the Property, the Commercial Lots, Homesites, the Residence Units and Common Elements shall be in accordance with the following provisions as long as this Declaration remains in effect.
- 3.2a **Commercial Buildings.** The Commercial Lots and any building or structure now or hereafter erected on the Commercial Lot shall be occupied and used by a single or multi-tenant business or commercial purpose. Commercial building can be erected for mix use buiness and residential purposes as long as the business commercial purpose is located

on the 1st floor of the building. Commercial building should not exceed four floors and remain under 50' in total. Business and Commercial building can be lease both "short" or "long term" to prospective tenants by their owners.

3.2b Single Family Residence. The Homesites and any building or structure now or hereafter erected on a Homesite shall be occupied and used for single family residence purposes only, and no building shall be erected, altered, placed or permitted to remain on any Homesite other than one single detached dwelling not exceeding two stories and an attic (finished or unfinished) in height, a basement (finished or unfinished), a garage for not more than three cars (which may include guest or employee quarters) and appropriate outbuildings incident to the single family residential use of the premises. Garages shall not open to the front street unless approved by the Architectural Review Board. Each of the Homesites and any permitted Residence Units constructed thereon shall be occupied only by the Owner (or Owners), his family, his servants and guests, or lessees, and shall be used only as a single- family residence and for no other purpose. No Residence Unit may be divided or subdivided into a smaller unit nor any portion thereof separately sold or otherwise transferred; provided that Homesites or portions thereof may be combined to form larger parcels than originally platted. Lease or rental to one or more tenants of a Residence Unit for residential purposes, subject to the other provisions of this Declaration, shall not be considered a violation of this covenant.

3.3 Nuisances. No nuisances shall be allowed upon any Commercial Lot or Homesite nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by its residents. All parts of the Common Elements, and the Commercial Lots, Homesites or Residence Units shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate. No damage to or waste of the Common Elements, or any part thereof, shall be committed by any Commercial Tenant, Owner or their family, visitors, guests, servants, lessees, agents or invitees, and each Owner shall indemnify and hold the Association and the other Owners harmless against all losses resulting from any such damage or waste. No Commercial Lot, Homesite or Residence Unit Owner shall make or permit any use of his Homesite or Residence Unit, or make any use of the Common Elements, which will violate the provisions of the general documents or any insurance policy covering the Property.

3.4 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of any part of the Property, and all applicable laws, zoning ordinances and regulations of all governmental bodies shall be observed. The expense of complying with any such laws, ordinances or regulations which compliance requires maintenance, modification or repair of the Common Elements shall be borne by the Association unless necessitated by the misuse, misconduct or neglect of a Commercial Lot, Homesite Owner or Residence Unit Owner, or his family, visitors, guests, servants, lessees, agents or invitees, in which case such expense shall be assessed against such Owner.

3.5 Certain Structure Types Prohibited. For Homesites: Mobile, Modular and Manufactured Homes are prohibited. In the event of any question as to whether a proposed structure may be considered a prohibited Mobile, Modular or Manufactured Home, the Declarant shall decide based on its sole discretion during the period of Declarant Control and thereafter the Board shall decide based on the existing standards for construction in the Architectural Review Board Policies and Procedures.

3.6 Rules and Regulations. Rules and regulations adopted by the Board shall be binding upon the Owners, their families, visitors, guests, servants, lessees, agents, invitees, successors and assigns.

3.7 Fences, Walls and Landscaping. No fences or walls shall at any time be erected or maintained upon the Property or any Commercial Lot or Homesite, unless they are specifically approved by the Architectural Review Board or their designated representative. Initial landscaping for each Commercial Lot and Residence Unit must be approved by the Architectural Review Board. Any annual plants approved for landscaping by the Architectural Review Board must be cared for by the Owner of the Commercial Lot, Homesite or Residence Unit.

3.8 Parking Areas. No Owner or Tenant of a Commercial Lot or Homesite shall park, store or keep any motor vehicle, boat, trailer, recreational vehicle or other vehicle upon the Property except in accordance with rules and regulations adopted by the Association. No person shall repair or restore any motor vehicle, boat, trailer, recreational vehicle or other vehicle upon any portion of the Property or Common Elements except for emergency repairs thereto, and then only to the extent necessary to enable movement thereof to a proper facility.

3.9 Waste Material Containers. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any Commercial Lot or Homesite or the Common Elements except in sanitary containers located in appropriate areas and otherwise in accordance with rules and regulations adopted by the Association from time to time. No Homesite owner shall use the Commercial Lots sanitary trash containers. No "hazardous substance" or "solid waste" as defined in any state or federal law shall be released, kept or maintained on any Homesite or portion of the Common Elements.

3.10 Signs. Unless prior written approval is obtained from the Association, no sign shall be posted on the Common Elements, or on any Commercial Lot, Homesite or Residence Unit or in any Residence Unit which will be visible from the exterior of such Unit.

3.11 Offensive Trade or Activity. No noxious or offensive trade or activity shall be carried on upon any building site, nor shall anything be done thereon which may be or cause an embarrassment, discomfort, annoyance or nuisance to the

neighborhood. No trade materials or inventories may be stored upon the premises and no campers, recreational vehicle, motor home, trucks or trailers, boats or boat trailers may be stored or regularly parked on the premises unless garaged and out of view, without prior written approval of Architectural Review Board. Unless approved in writing by the Architectural Review Board, in the Residential areas no business activity or trade of any kind whatsoever, which shall include but not be limited to the use of any residence as a doctor's office or professional office of any kind, shall be carried on upon any building site.

3.12 No Temporary Structures. No structure of temporary character, tent, shack, trailer, camper, garage, or any other outbuilding, except for temporary structures used by Declarant in the operation, maintenance or development of the Property shall be used on any Commercial Lots, Homesite at any time as permanent or temporary commercial space or residence, or dwelling, except under a temporary written permit which may be granted, upon specific time limitations of such use, in the discretion of the Architectural Review Board. Nor shall any of the facilities referenced above be placed on or erected on any Commercial Lot, Homesite or Homesites; provided, however, that the Architectural Review Board may grant permission for such temporary buildings or structures for the storage for materials during construction by the persons doing such work.

3.13 No Livestock. No livestock of any description may be kept or permitted on the Property with the exception of dogs, cats, and other animals which are bona fide household pets, and which do not make objectionable noise or constitute a nuisance or inconvenience to Owners of other Commercial Lots, Homesites or Residence Units nearby. All pets shall be leashed when not on the Owner's Commercial Lot or Homesite and shall otherwise be controlled by the Owner while on the Owner's Commercial Lot or Homesite such that the pet shall not have unrestrained access to property other than that of the Owner. Upon receipt of a written complaint regarding any dog, cat or pet, the Architectural Review Board may notify the Owner of such dog, cat or pet of the complaint and, after affording the Owner an opportunity to be heard, impose such restrictions upon the Owner regarding such dog, cat or pet as may be reasonably necessary to satisfy said complaint in the discretion of the Board. No raising, breeding, training or commercial dealing in dogs, cats or any other animals may be permitted on or from any Commercial Lot, Homesite or Residence Unit.

3.14 Off-Street Parking. Adequate off-street parking shall be provided by the Owner of each Commercial Lot, Homesite or Residence Unit being used as a building site and each Commercial Lot, Homesite or Residence Unit for the parking of automobiles owned by such Owner, or their guest. Owners of Homesites and Residence Units agree not to park their automobiles or other vehicles on the streets in the development. No boats, trailers, or recreational vehicles shall be regularly parked or stored on any street, or on any Commercial Lot or Homesite except in a garage. No commercial vehicles shall be parked on any street Commercial Lot, or Homesite longer than is reasonably necessary for the driver thereof to perform the business functions to which the commercial vehicle relates.

3.15 Recreational Facilities. Commercial Lots can have Recreational Facilities as approved by the Declarant. No Homesite Owner or Residence Unit Owner in the development shall have any right to use any portion of the Common Elements comprised of recreational facilities unless the Homesite Owner or Residence Unit Owner has paid the applicable fees and assessments established by the Association.

3.16 Refuse. No Commercial Lot or Homesite shall be used or maintained as a dumping ground for rubbish, refuse or garbage. Garbage or other waste shall be kept in sanitary containers. All incinerators or other equipment for the disposal or storage of such matter shall be kept in a clean and sanitary condition, and all incinerators shall be approved by the Architectural Review Board before installation or use. Burning of trash or refuse is prohibited without prior approval of the Architectural Review Board and the fire department authorized to serve the premises. Fires on any Commercial Lot or Homesite or any portion of the Common Elements are prohibited unless approved by the Architectural Review Board. No hazardous substance, waste or other toxic material shall be dumped, buried, injected, treated or disposed of on any Commercial Lot or Homesite or any portion of the Common Elements.

3.17 Antennas. No television or radio antennae, satellite receiver or towers may be erected or maintained anywhere upon the development without prior written consent of the Architectural Review Board upon such reasonable conditions as the Architectural Review Board may feel appropriate to minimize any visual impact of the structure to others.

3.18 Wash. All drying of wash must be done indoors or in an area screened from view from any other Commercial Lots Homesites, Residence Units, street or adjoining property not part of the Development. No permanent exterior clothes dryer shall be erected, installed, or maintained on any Commercial Lot, Homesite, or on any Structures thereon. Only collapsible or retractable clothes dryers shall be used, and they shall be collapsed or retracted when not in use and shall be located in the rear yard behind any Residence Unit and not be visible to any Commercial Lot.

3.19 Trees and Foliage. Trees measuring four (4) inches or more in diameter, at a point three (3) feet above ground level, and any flowering trees or shrubs above five (5) feet in height may not be removed from the property without the written approval of the Architectural Review Board. Excepted here shall be trees which must be removed because of an emergency or are in the specified building envelop.

3.20 No Site Obstructions. No trees or shrubs shall be located on any Commercial Lot or Homesite which block the view of operators of motor vehicles so as to create a traffic hazard.

3.21 Unsightly Conditions. It is the responsibility of each Owner to prevent any unclean, unsightly, or unkept conditions of their Commercial or Resident Unit or grounds on a Commercial Lot or Homesite of any owner which shall tend to materially decrease the beauty of the Planned Community. The Association shall have the option, but not the obligation to ameliorate any such condition and charge such expense to the Owner as an additional assessment immediately due and payable collectible under the provisions of Article 6.

3.22 Discharge of Firearms. Hunting and trapping of wild animals, fowl and game and discharge of firearms and/or bows and arrows within the property is prohibited unless required for public or private safety.

3.33 Motorized Vehicles. All motorized vehicles operating within the Property must be properly muffled so as to eliminate noise which might be offensive to others.

3.34 Vegetation. No existing vegetation or wetlands shall be disturbed during construction without the express written consent of the Architectural Review Board and any necessary approval from any governmental agency having jurisdiction. The Architectural Review Board shall require written proposals for the re-stabilization of any such disturbed area. Any vegetation disturbed during construction shall be restored to the satisfaction of the Architectural Review Board prior to Owner applying for an occupancy permit.

3.35 Wetlands. Any Commercial Lots or Homesites that include areas designated as “wetlands” on any recorded plat of the Property shall be subject to the following additional restrictive covenant: “A portion of this Commercial Lot or Homesite has been determined to meet requirements for the designation as a regulatory wetland. Any subsequent fill or alteration of this wetland shall conform to the requirements of state wetland rules adopted by the State of North Carolina in force at the time of the proposed alteration. The intent of this restriction is to prevent additional wetland fill, so the property owner should not assume that a future application for fill will be approved. The property owner shall report the name of the subdivision in any application pertaining to said wetland rules. This covenant is intended to ensure continued compliance with wetland rules adopted by the State of North Carolina and therefore benefits may be enforced by the State of North Carolina. This covenant is to run with the land and shall be binding on all parties and all persons claiming under them.

3.36 Additional Use Restrictions. These Restrictions shall include architectural and landscaping restrictions which shall govern portions of the Property as provided in Article 4.

ARTICLE 4

CONSTRUCTION ON COMMERCIAL LOTS / HOMESITES / RESIDENCE UNITS

ARCHITECTURAL AND LANDSCAPE CONTROLS

4.1 Architectural Review Board. It is the intent of Declarant to create a general plan and uniform scheme of development of the Property and to create within the Property a commercial/ residential mix use community of high quality and harmonious improvements. The Declarant desires to provide for the preservation of the property values in the Planned Community with respect to any Commercial Unit /Residence Unit to be constructed on any Commercial Lot / Homesite and to that end, desires to establish an Architectural Review Board in order to provide and maintain certain standards as to harmony of external design and location in relation to surrounding structures and topography. Accordingly, the Architectural Review Board (the “Architectural Review Board”) shall have the absolute and exclusive right to approve or disapprove all architectural, landscaping and locating of any proposed improvements. The Architectural Review Board may, in its sole discretion, impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning or other governmental codes.

4.2 Approval to Build. The Owner of a Commercial Lot / Homesite may build a Commercial Building / Residence Unit thereon subject to the following terms, conditions and restrictions:

4.2.1 Commercial / Homesite Configuration. No commercial or residence shall be constructed, altered, placed or permitted to remain on any parcel in the Planned Community unless same is constructed upon a defined Commercial Lot / Homesite. The lay of the Commercial Lots / Homesites as shown on the recorded plat shall be adhered to; provided, however, Declarant and its successors and assigns, may revise and altar the following: (a) the configuration of Commercial Lots / Homesites so that additional streets or access easements, either public or private, may be opened through any Commercial Lot / Homesite, and (b) the size and shape of any Commercial Lot / Homesite may be altered, provided such reconfiguration applies with all applicable zoning and subdivision regulations. The Owner(s) of more than one (1) contiguous Commercial Lot / Homesite may apply to the Architectural Review Board for permission to use such properties as a site for a Single use Commercial / Single-Family Residence and upon the written consent of the Architectural Review Board, said contiguous parcels shall then be deemed to be a single “Commercial Lot” / “Homesite” for purposes of this Declaration, except that the Commercial Lot / Homesites shall continue to be treated as separate and distinct Commercial Lot / Homesites for purposes of voting and assessments. In the event of a split of a Commercial Lot /

Homesite between two or more Owners of other Commercial Lots / Homesites, then they shall determine the allocation of the vote and assessment obligation between them and notify the Association. All setbacks and any reserved utility easements shall then apply to the new perimeter boundary of the combined Commercial Lots / Homesites.

4.2.2 Building Contractors for Commercial and Residence Unit. Declarant reserves the right, at its sole option, for Declarant or the Architectural Review Board to designate the criteria for building contractors who may be employed by Owners to construct commercial buildings or homes on a Commercial Lot / Homesite in the Planned Community which is the subject of these restrictions. The Architectural Review Board, at their election, may establish specific criteria for the building contractors to satisfy construction of homes within the Planned Community. Neither Declarant nor the Architectural Review Board have any obligation to establish the criteria for the building contractors and do not in any manner have any obligation concerning their performance.

4.2.3 Applicable Laws and Architectural Review Board Policies. A Commercial Lot / Homesite is subject to having constructed on it by its Owner a Commercial Unit / Residence Unit that meets the requirements of any applicable laws, ordinances, restrictions, and covenants approved by the Architectural Review Board pursuant to the policies and procedures established by the Architectural Review Board as described in the Policies and Procedures. The Architectural Review Board, shall have the power to enforce this Article and the Policies and Procedures by any action, including any type of action in a court of law or equity.

4.2.4 Plans and Specifications. No building of any type, outside lighting, driveway, clearing or site work, outside trash receptacle, fence, wall, hedge or screen planting shall be erected, placed or altered on any premises in the Planned Community until the building plans, specifications and plot plans showing the location of such building, outside lighting, outside trash receptacle, wall, hedge, fence or screen planting have been approved in writing as to conformity and harmony of external design, and external materials with existing structures in the area and as to location with respect to topography, wetlands, and finished ground elevation, by the Architectural Review Board. No exposed concrete blocks shall be used above finished ground elevations unless said blocks are covered with concrete, metal, brick veneer, stone, or stucco. No asbestos shingles or asbestos siding of any type or asphaltic covering shall be used on vertical exterior walls, unless approved by the Architectural Review Board. In the event said board fails to approve or disapprove such design or location within forty-five (45) days after such plans and specifications have been submitted to it, such approval will not be required, and this covenant will be deemed to have been fully complied with.

4.2.5 Site Plans. The Architectural Review Board shall approve the location of buildings and other improvements on all building sites in the Planned Community. Except with the prior written approval of the Architectural Review Board, no building shall be located on any building site outside the minimum building setback lines shown on any recorded map; or, if not shown on the recorded map setbacks shall be forty (40) feet from the rear property line, thirty (30) feet from any front street and twelve (12) feet from any side Homesite or side street line. The Architectural Review Board shall in all cases determine the front street for each Homesite. The measurements for setbacks, except in the cases of side street setbacks, shall be from the base of the building foundation and reasonable eaves or overhangs or decks (not to exceed ten (10) feet) shall not be considered. Side street setbacks and other measurements for setbacks are to be from the outer edge of the eaves, overhangs and decks. No change in the natural drainage shall be made by any Homesite Owner without prior written approval from the Declarant. No changes other than general maintenance can be made to any drainage easement unless approved by the Declarant. Commercial buildings Site Plans must be approved by the Declarant on an individual case bases including appropriate setbacks.

4.2.6 Exterior Building Materials: Waterworks was an industrial park that serviced housed the original Waterworks building for the Town of Southern Pines in 1925. As such there were many industrial elements incorporated into the original design and structure of the original buildings on the site i.e. Concrete settlement tanks, Concrete Cisterns, Steel and Wood building structures, Metal, Steel, and Wood Water Towers, Heavy Industrial equipment and pumps, Water Falls and Water Sprays. As such, the Architectural Review Board highly encourages the use of metal, concrete, wood, steel, brick, and glass into all designs. It also will encourage the use of unique and original design both in the commercial building and residential design. The Waterworks Development is somewhat isolated away from other commercial and residential areas in the Town of Southern Pines and therefore the Architectural Review Board will look and encourage designs that bring metal, glass, concrete, and wood elements in to mix with the traditional elements of glass and brick. Under these guidelines, each design will be considered on its own merits as how it fits into the Development as a whole. The original Waterworks building still stands and has been renovated. The first commercial buildings that have been approved by the ARB are metal, glass, concrete, and structural steel exteriors to give a “node” to the elements that were part of the original industrial site that was once Waterworks. Hence we encourage all owners to submit their original ideas to the Architectural Review Board for initial comments as the board wants to encourage original idea rather than stifle them.

4.2.7 Square Footage of Residence Units. No residential structure exceeding a total height of 35 feet, and which has an area of less than 1,800 square feet of heated living space, exclusive of porches and garages, shall be erected or placed

on any building site. Two-story dwellings shall contain not less than 1,200 square feet of heated living space on the first or ground floor. A second story shall be defined as any floor level which lies at an elevation of more than five (5) feet above but less than twelve (12) feet above any other floor level within the same residence. Square Footage of Commercial Unites will be determined on an individual case bases but not exceed 30,000 sq feet or a total height of 45 feet with out Declarant written approval.

4.2.8 Approvals. The Architectural Review Board shall have the right to disapprove any plans, specifications or details submitted to it as aforesaid in the event such plans, specifications and details are (i) not in accordance with all of the provisions established in this Declaration and the Policies and Procedures established by the Architectural Review Board, (ii) if the design or color schemes of the proposed building or other structure is not in harmony with the general surroundings of such Commercial Lot / Homesite or within the adjacent buildings or structures, (iii) if the plans and specifications submitted are incomplete, or (iv) in the event the Architectural Review Board deems the plans, specifications or details, or any part thereof, to be contrary to the interests, welfare or rights of all or any part of the Property or the Owners thereof, all in the sole discretion of the Architectural Review Board. The decisions of the Architectural Review Board shall be final, subject to the right of the Owner to appeal to the Board. Neither Declarant, the Architectural Review Board nor any agent thereof shall be responsible in any way for (i) any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing, (ii) any structural or other defects in any work done according to such plans and specifications, or (iii) the enforcement of any municipal or governmental code, statute, law or ordinance.

4.2.9 Building Permit. No Owner shall obtain a building, permit from the applicable County or municipal agencies without first obtaining all necessary approvals from the Architectural Review Board as set forth in the Policies and Procedures. Declarant shall have the right to charge a reasonable building permit fee for use to defray the expense of the Architectural Review Board in approving any building or Commercial Lot / Homesite construction plan which shall be payable by the Owner at the time of submission of the plans for approval.

4.2.10 Time Period. The work of constructing, altering or remodeling any building on any Commercial Lot (s) / Homesite (s) shall be pursued diligently from the commencement until the completion thereof, and shall be completed within twenty-four months for Commercial Lots and twelve (12) months from time of approval by the Architectural Review Board.

4.2.11 Grading and Filling. All planned Commercial Lot / Homesite grading shall be approved in advance by the Architectural Review Board. No Commercial Lot / Homesite may be filled to a point higher than the highest point on the Homesite in its natural state without permission from the Architectural Review Board. All Commercial Lot / Homesite fillings shall be approved in advance by the Architectural Review Board.

4.2.12 Driveway Culverts. Each Owner, if required by the Architectural Review Board in the approval of the plans process, when making a driveway connection to the street or to a cul-de-sac, will provide a suitable drainage culvert so as to allow for unimpeded water movement along the existing roadway swale, and will maintain that culvert at all times in such a way that it does not become an eyesore or disturb the desired drainage patterns in the swale system.

4.2.13 Sidewalks. Commercial Buildings or Homes that require sidewalks per the plat approved by the Town of southern Pines shall be responsible for their installation. Maintenance shall subsequently be the responsibility of the Town of Southern Pines.

4.2.14 Deviations from the Town of Southern Pines UDO 4.10 “Development Design Standard (Adopted Oct. 8, 2013, Amended April 12, 2022, and compliance to G.S. 160D)” For Commercial Buildings:

UDO 4.10.4(A)(1) - Primary Customer Entrance: The primary customer entrance for buildings not on a main development street shall be placed facing either the main parking lot associated with the structure or street side, or both as directed by the Planned Development Architectural Review Committee (**PDARC**) to best facilitate foot traffic for the establishment and/or the development. Buildings that face a primary development street, the primary customer entrance will face the primary street or as directed by the **PDARC**.

UDO 4.10.4(A)(2) – Spacing and Distance between customer entries: Each building or structure will have at least one front customer entrance per “business” and one side/rear facing entrance place as need based on interior layout of the building or business occupying the space(s) A single front entrance is permitted if allowed as outlined in North Carolina Building Code (latest edition).

UDO 4.10.4(B)(2) – Widths of building or building segments in other districts (not CB and DTO): Commercial buildings within the development shall not be more than 5.5x the building height measured at the highest point on the building or as deemed acceptable by the **PDARC**.

UDO 4.10.4(B)(3) – Building segments created through a combination of features: Commercial building under consideration (single tenant or multi-tenant) will enter in from a single entry point as directed by Section UDO 4.10.4(A)(1) of this covenant. Exterior building elements/segments can be used, but not required, as needed for the over architectural appearance of the building and to provide a uniform look throughout the development. The **PDARC** can and

will make recommendations on the exterior appearance to ensure a uniformity of all commercial buildings within the development.

UDO 4.10.4(C) – Building Materials: Building Materials can be primarily composed of Brick, Aluminum Composite Material aka ACM (3mm minimum thickness with a fire-retardant code), Architectural Metal/Steel Panels (vertical or horizontal ribs), Insulated Metal Panels aka IMP (vertical or horizontal seams), Concrete Masonry, Stone, Cast Stone, Non-reflective Glass and Stucco. Wood, Metal, Concrete, Glass, and Stucco maybe used as accent pieces.

UDO 4.10.4(D)(1) – Windows and Window Glazing: Windows can be either can be glazed in non-reflective, clear glass or non-reflective tinted glass that accents the building other architectural elements.

UDO 4.10.4(D)(3) – Windows and Doors (Public Street Facing Facades): Windows and Doors shall comprise at least twenty-five (25) percent of the street facing building facades unless a written variance is granted by the **PDARC**.

UDO 4.10.4(E)(2) – Awnings: Awnings are encouraged (not required) to be placed at all customer and employee entrances and shall maintain minimum clearance of seven feet (7ft) as measured from the lowest point of the awning and the finished sidewalk elevation directly under the location of the awning.

UDO 4.10.4(E)(3) – Awning Materials: Awnings can be of canvas or metal that is architectural pleasing to the overall appearance of the building. Canvas material color and texture shall be approved by the **PDARC**.

UDO 4.10.4(F)(1) – Galleries and Arches: Galleries and Arches are allowed within the development and allowed to encroach onto the sidewalks.

UDO 4.10.4(F)(2) – Galleries and Arches Clearance: Clearance of twelve feet (12ft) minimum shall be maintained between the lowest point of the ceiling and the finished material directly below the ceiling.

UDO 4.10.4(G)(1) – Parapets: Parapets are allowed within the development. Parapet heights shall not be less than required to meeting North Carolina Building Code (latest edition) and/or OSHA requirements for fall protection.

UDO 4.10.4(G)(2) – Changes in Parapet Heights: Changes in parapet heights are encouraged to provide architectural features to commercial buildings but are not required.

UDO 4.10.4(G)(3) – Roofing Materials: Asphalt Shingles, Standing Seam (non-reflective), Non-Reflective Metal can be used on all roof and trim areas, and Ethylene Propylene Diene Terpolymer roofing aka EPDM.

UDO 4.10.4(H) – Mechanical Equipment: Mechanical equipment shall be placed on the roof of all commercial buildings, if possible, and shall be screen from public view by use of parapets or placed in such a manner that they cannot be seen from surrounding streets or parking areas. The use of ground mounted equipment shall be approved by the **PDARC** and if approved shall be screened with materials as outlined in UDO 4.10.4 (C) – Building Materials of this covenant.

UDO 4.10.4(I) – Loading Zones and Garage Bays: Garage bays and loading zones shall not face public streets or residential areas unless they are screened by materials outlined in UDO 4.10.4(C) of this covenant or my means of vegetation that is directly approved b by the **PDARC**.

UDO 4.10.4(J) – Signage: Building signage shall be allow on each side of the building that fronts on a public street or parking area. Each sign shall not exceed 100 square feet in area and if they are multiple tenants, then the 100 square feet can be split between the tenant within the building for each side. The overall appearance of the signage shall be approved by the **PDARC** prior of ordering of sign.

UDO 4.10.6 – Large Scale Retail Development

UDO 4.10.6(A) – Purpose: No deviation requested for section

UDO 4.10.6(B) – Applicability: This shall apply to any existing or new building having a single floor square footage equal to or greater than 25,000 square feet or building have a total gross square footage equal to or exceeding 25,000 square feet.

UDO 4.10.6(C)(1) – Utility Design: On-site underground water and sanitary utilities will be designed to accommodate large scale retail development. All power requirements will be in accordance with utility company providing power to the development. Power for existing building(s) that will be redeveloped for large scale retail will be resized & coordinated with power company.

UDO 4.10.6(C)(2) – Entries: Entries for new building shall be spaced no further than one-hundred and fifty (150) feet. Existing building entries shall be modified as needed to meet or exceed the exit requirements as outlined in the North Carolina Building Code (latest edition) for occupancy load projected for the large-scale retail development. The building (new or existing) entries shall be clearly defined, visible entrance, providing access from the front of the building and shall have an awning or canopy over the primary access. Display windows are allowed within the development.

UDO 4.10.6(C)(3) – Building Materials: Buildings materials shall meet the requirements of UDO 4.10.4(C) – Building Materials of this covenant.

UDO 4.10.6(C)(4) – Building Articulation: Building articulation will meet the requirements of UDO 4.10.4(B)(2) and UDO 4.10.4(B)(3) of this covenant.

UDO 4.10.6(C)(5)(A) – Rooflines: Rooflines for new large-scale retail development buildings shall vary in height to accurately define the entry locations of each retail space located in the same building. Hips, gables, or changes in parapet heights can be used to meet this requirement for new buildings. Existing buildings set for redevelopment in large-scale retail are not required to be modified to meet this requirement.

UDO 4.10.6(C)(5)(B) – Rooflines: No deviation requested

UDO 4.10.6(C)(5)(C) – Rooflines: Parapets when used shall meet the requirements of UDO 4.10.4(G)(1) – Parapets of this covenant.

ARTICLE 5

PROPERTY OWNERS ASSOCIATION

5.1 Membership. Every owner of a Homesite shall be a member of Waterworks Property Owners Association, Inc., a non-profit corporation, created by the Declarant. Membership shall be appurtenant to and may not be separated from ownership of any Commercial Lot / Homesite. Each membership in the Association shall relate to and have a unity of interest with an individual Commercial Lot / Homesite which may not be separated from ownership of said Commercial Lot / Homesite. Note: Inside the Waterworks Property Owners Association, Inc. Commercial Property and Residential Property owners will be member of Commercial Property owners' group and Residential Property owners groups as they will be voting on issues that only effect each group independently.

5.2 Powers of Association. Subject to the provisions of this Declaration and the Articles of Incorporation, the Association may exercise all powers provided by NCGS §47F-3-102 of the North Carolina Planned Community Act, including but not limited to the following:

5.2.1 adopt and amend Bylaws and rules and regulations;

5.2.2 adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from owners;

5.2.3 hire and discharge managing agents and other employees, agents, and independent contractors;

5.2.4 institute, defend, or intervene in litigation or administrative proceedings on matters affecting the Planned Community;

5.2.5 make contracts and incur liabilities;

5.2.6 regulate the use, maintenance, repair, replacement, and modification of Common Elements;

5.2.7 cause additional improvements to be made as a part of the common elements;

5.2.8 acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, provided that Common Elements may be conveyed or subjected to a security interest only pursuant to NCGS §47F-3-112;

5.2.9 grant easements, leases, licenses, and concessions through or over the Common Elements;

5.2.10 impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements other than the Limited Common Elements and for services provided to Owners;

5.2.11 impose reasonable charges for late payment of assessments and, after notice and an opportunity to be heard, suspend privileges or services provided by the Association (except rights of access to Commercial Lots / Homesites) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer;

5.2.12 after notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the Association for reasonable periods for violations of the Declaration, Bylaws, and Rules and Regulations of the Association;

5.2.13 impose reasonable charges in connection with the preparation and recordation of documents, including, without limitation, amendments to the Declaration, or statements of unpaid assessments;

5.2.14 provide for the indemnification of and maintain liability insurance for its officers, executive board, directors, employees and agents;

5.2.15 assign its right to future income, including the right to receive Common Expense assessments;

5.2.16 exercise all other powers that may be exercised in this State by legal entities of the same type as the Association; and

5.2.17 exercise any other powers necessary and proper for the governance and operation of the Association.

5.3 Procedures for Fines and Suspension of Planned Community Privileges or Services.

A hearing shall be held before an adjudicatory panel appointed by the Board to determine, if any Owner should be fined, or if Planned Community privileges, including voting privileges, or services should be suspended. If the Board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the Board. The Owner charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed the maximum then allowed under the Planned Community Act may be imposed for the violation and without further hearing, for each day after the decision that the violation occurs.

Such fines shall be assessments secured by liens under Article 6. If it is decided that a suspension of Planned Community privileges, including voting privileges, or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured.

5.4 Executive Board Members and Officers.

Except as provided elsewhere in this Declaration, in the Bylaws, or in subsection 5.5, the executive board may act in all instances on behalf of the association. In the performance of their duties, officers and members of the executive board shall be deemed to stand in a fiduciary relationship to the association and the lot owners and shall discharge their duties in good faith, and with that diligence and care which ordinarily prudent men would exercise under similar circumstances in like positions.

5.5 Executive Board Prohibitions. The executive board may not act on behalf of the Association to amend the Declaration, except for any amendments that do not require Member approval; to terminate the Planned Community; or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members, but the executive board may fill vacancies in its membership for the unexpired portion of any term as provided in the Bylaws.

5.6 Declarant's Control of Association. Regardless of the time limitations of the Declarant Control Period, Declarant's vote shall be the vote of the membership and Declarant may appoint and remove all or any of the Board of Directors and all officers until such time as Declarant releases such right by notice in writing delivered to the Board of Directors of the Association.

5.7 Voting. The voting rights of the membership shall be appurtenant to the ownership of the Commercial Lots / Homesites. Each Owner shall be entitled to five (5) votes for each Commercial Lot one (1) vote for each Homesite owned. If only one of multiple owners of a Commercial Lot / Homesite is present at a meeting of the Association, that Owner is entitled to cast the vote allocated to that Commercial Lot / Homesite. If more than one of the multiple owners are present, the vote (s) allocated to that Commercial Lot / Homesite may be cast only in accordance with the agreement of the majority in interest of the multiple owners. Majority agreement is conclusively presumed if any one of the multiple owners casts the vote allocated to that Commercial Lot / Homesite without protest being made promptly to the person presiding over the meeting by any of the other multiple Owners of the Commercial Lot / Homesite.

5.8 Proxies. The vote allocated to a Commercial Lot / Homesite may be cast pursuant to a proxy duly executed by a Commercial Lot / Homesite Owner. If a Commercial Lot / Homesite is owned by more than one person, each Owner of the Commercial Lot / Homesite may vote or register protest to the casting of votes by the other owners of the Commercial Lot / Homesite through a duly executed proxy. A Commercial Lot / Homesite Owner may not revoke a proxy given pursuant to this section except by written notice of revocation delivered to the person presiding over a meeting of the Association. A proxy is void if it is not dated. A proxy terminates one year after its date, unless it specifies a shorter term.

5.9 Amenities and Common Elements. Every park, recreation area, recreation facility, dedicated access and other amenities appurtenant to the Planned Community, whether or not shown and delineated on any recorded plat of the Property, shall be considered private and for the sole and exclusive use of the Owners of Commercial Lots / Homesites within the Property. Neither Declarant's execution nor the recording of any plat nor any other act of Declarant with respect to such areas is, or is intended to be, or shall be construed as a dedication to the public of any such areas, facilities or amenities.

5.10 Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Property, including the Common Elements, which rules, and regulations shall be consistent with the rights and duties established by this Declaration. Copies of such rules and regulations shall be maintained by the Secretary of the Association and furnished to all Owners upon request. Such rules and regulations shall be binding upon the Owners, their families, visitors, guests, servants, lessees, agents, successors and assigns until and unless they are specifically amended, overruled or canceled in a regular or special meeting of the Association by the affirmative vote of seventy-five percent (75%) of the total vote of the membership of the Association.

5.11 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

5.12 Personal Property for Common Use. The Association may from time to time acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

ARTICLE 6

COMMON EXPENSES

6.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner for each Commercial Lot / Homesite owned within the properties, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual

assessments or charges; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on each Commercial Lot / Homesite and shall be a continuing lien upon each Commercial Lot / Homesite against which each such assessment is made, but only from such time as a Claim of Lien is filed as hereafter provided. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Commercial Lot / Homesite at the time when the assessment fell due.

6.2. The Common Expenses of the Planned Community include:

6.2.1 All amounts expended by the Association or the Architectural Review Board in enforcing the Declaration, the Bylaws, or the Architectural Policies and Procedures.

6.2.2 All amounts expended by the Association in carrying out any duty or discretion as may be required or allowed by the Declaration or the Bylaws.

All amounts declared to be Common Expenses in the Declaration or Bylaws.

6.2.2 All taxes and special assessments which may be levied from time to time by any governmental authority upon the Common Elements in the Planned Community.

6.2.3 Fees and expenses of managing and administering the Association and maintaining, repair or placement of the Common Elements;

6.2.4 Expenses of utility services for the Common Elements, including water, gas, electricity and sewer;

6.2.5 The costs of all insurance premiums on all policies of insurance obtained by the Board pursuant to the Declaration;

6.2.6 All rental and other payments required to be made for any property which is hereafter leased or rented for the use and benefit of the Association;

6.2.7 Amounts determined by the Board to be reasonably required as working capital of the Association, for a general operation reserve, for a reserve fund for replacements, for deficiencies arising from unpaid assessments, and such amounts as may be required for the purchase or lease by the Board or its designee, corporate or otherwise, on behalf of all Owners of any Commercial Lot / Homesite who has elected to sell or lease such Commercial Lot / Homesite or Commercial Lot / Homesite which is to be sold at a foreclosure or other judicial sale;

6.2.8 Special assessments for capital improvements;

6.2.9 Any ad valorem real property taxes and governmental special assessments affecting the Common Elements which are not assessed upon the Owners separately;

6.2.10 Fees and expenses for the promotion of the health, safety and welfare of the residents of the Property;

6.2.12 Maintenance and operation expenses for the streets, gatehouses, walking or jogging trails, any recreational facilities (pools, tennis courts or other similar recreational amenities constructed by Declarant or approved by the Association after the Declarant Control Period), any future Community Center Building and Grounds, community garden, native plant nursery, playground, wetlands, parks and other properties owned, leased or used by the Association or for which the Association has maintenance responsibility.

6.2.13 Costs and expenses that the Association incurs to arrange with third parties to furnish trash collection, snow removal, and other common services to each Commercial Lot / Homesite or Residence Unit or Commercial Unit.;

6.2.14 Costs and expenses for the acquisition, improvement, repair and maintenance of the properties, services and facilities owned, leased or acquired by the Association;

6.2.15 Costs and expenses for the employment of third-party managers for the Common Elements, accountants, attorneys and other professionals to represent the Association when necessary;

6.2.16 Costs and expenses to purchase, install, maintain and replace, if damaged, at Association expense, all street directional and regulatory signs in the Development Area.

6.2.17 Costs and expenses of maintenance and landscaping on the rights of ways of any public street or road abutting the Development Area, including entranceways, identifying signs and any landscape berm within the boundary of the Development Area.

6.2.18 Cost and expenses of maintenance of any reserved utility easements, including drainage easements, whether located within the Development Area, regardless of ownership.

6.2.19 Costs and expenses for the procurement and maintenance of fidelity and performance bonds for its officers, agents and employees.

6.2.20 All Security Expenses.

6.2.21 All other amounts necessary to carry out the responsibilities of the Association under the terms of the Declaration or the Bylaws.

6.2.22 Any valid charge against the Association or against the Common Elements as a whole.

6.2.23 Expense agreed upon as Common Expense by the Association and lawfully assessed against Owners of Commercial Lot, Homesite or Residence Units or Commercial Unit in accordance with the Declaration or Bylaws.

6.2.24 Any other expense declared a Common Expense by the provisions of the Declaration or the Bylaws.

6.3 Special Assessments for Capital Improvements. In addition to the assessments provided for above, the Association may levy special assessments for the purpose of paying, in whole or in part, the cost of construction of any new improvement or reconstruction or replacement of any existing improvement within the Common Elements, including the cost of any fixtures or personal property relating thereto; provided that such assessment shall have been approved by the vote of the holders of at least two-thirds (b) of the total vote of the Association at a regular or special meeting duly called, written notice of which shall have been given in the manner specified in the Bylaws of the Association. The due date of any special assessments shall be fixed in the resolution or resolutions authorizing such assessments. Special Assessments shall be assessed at a uniform rate as applied to Regimes.

6.4 Emergency Special Assessments. The Association may levy an emergency special assessment when, in the sole determination of the Board, there is potential danger of damage to persons or property. Such emergency special assessments may be utilized to pay for preventative, protective or remedial construction, reconstruction, improvements, repairs or replacements. Events justifying emergency special assessments include, but are not limited to, hurricanes, floods, and Emergency special assessments shall be collectible from Homesite and Residence Unit Owners in such manner as the Board shall determine.

6.5 Certificates. The Association shall, upon request by an Owner or prospective Owner or such person's agent, and for a reasonable charge not to exceed \$50.00, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Commercial Lot / Homesite have been paid. A properly executed certificate of the Association or by its Manager as to the status of assessments on a Commercial Lot / Homesite is binding upon the Association as of the date of its issuance.

6.6 Procedure for setting Annual and Special Assessments. The Board of Directors shall annually adopt a proposed budget and the annual assessment for each Commercial Lot / Homesite for the next year. Within 30 days after adoption of any proposed budget for the Association and assessments for the Commercial Lot / Homesite Owners, the Board shall provide a summary of the budget and assessments to all Commercial Lot / Homesite Owners, and shall set a date for a meeting of the Owners to consider ratification of the budget and the assessments based thereon not less than 14 nor more than 30 days after mailing of the summary. There shall be no requirement that a quorum be present at the meeting. The budget and the assessments based thereon are ratified unless at that meeting a majority of all Owners in person or by proxy rejects the budget. In the event the proposed budget is rejected, the periodic budget last in effect and the assessments based thereon shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors. In the event that the Association proposes a special assessment, it shall be set forth as a separate item in connection with the annual proposed budget and the procedure for setting the special assessment shall be as set forth above, except that the special assessment shall be ratified separately from the other portions of the budget.

6.7 Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum or the maximum interest rate permitted to be legally charged under The Planned Community Act at the time of such delinquency, whichever is greater, and shall constitute a lien on the Commercial Lot / Homesite when a Notice or Claim of Lien upon recordation in the Office of the Clerk of Court of Moore County, by the Association setting forth the name of the Owner, the Identifying Number of the Commercial Lot / Homesite, when the Assessment became due, the name of any subsequent Owner transferred the Commercial Lot / Homesite since the Assessment became due, and the amount owed, exclusive of any collection expense. In addition to such interest charge, the delinquent owner shall also pay such late charge as may be allowed by the Planned Community Act. The Association may bring an action at law against any Owner personally obligated to pay the same, and/or foreclose the lien against the property, and interest, late payment fee, fines, cost and attorneys' fees of such action of foreclosure shall be added to the amount of such delinquent Assessment. Notwithstanding the foregoing, however, nothing herein contained shall be construed to obligate the Board to bring any legal action or to prosecute any such action to a final conclusion if it is determined by the Board that it would be in the best interest of the Association to forego, to delay or to discontinue any such legal proceeding. No Owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of the Common Area or abandonment of their Commercial Lot / Homesite.

The Association's lien maybe foreclosed as provided in the Planned Community Act, as the same may be in effect at the time that foreclosure is commenced.

6.8 Collection. The Board shall take prompt action to collect the full amount of all fees, charges, assessments and other amounts, including any installment thereof, due from any owner which remain unpaid for more than ten (10) days from the respective due date for payment thereof. In the event of failure by any owner to pay within said ten (10) days any such amount, then the entire balance of all such amounts, including, without limitation, all amounts which would

otherwise be payable in installments, may, at the option of the Treasurer of the Association, be accelerated and be declared immediately due and payable in full, without notice.

6.9 Initial Limitation on Assessments. The initial monthly annual assessment of the first year until the first annual budget is adopted shall not exceed \$10 per month, or \$120 per year, for unimproved Commercial Lot / Homesites or \$50 per month or \$600 per year for Commercial Lot / Homesites with the issuance of a Building Permit for any Residence Unit.

6.10 Rate of Annual Assessment. Both annual and special assessments must be fixed at a uniform rate for all Commercial Lot / Homesites and may be collected on a monthly, quarterly or yearly basis or such other periodic basis as the Board of Directors of the Association may set. Emergency special assessments shall be collectible from Commercial Lot and Commercial Unit / Homesite and Residence Unit Owners in such manner as the Board shall determine.

6.11 Date and Commencement of Annual Assessment. The annual assessments provided for herein shall commence as to each Commercial Lots / Homesite on the first day of the month following the conveyance of that Commercial Lot / Homesite by Declarant to an Owner. The first annual assessment shall be adjusted according to the number of whole months remaining in the calendar year and shall be paid at closing along with an additional two (2) months assessment to be used as an initial unspecified reserve.

6.12 Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or deed of trust if, but only if, all such assessments with respect to such Commercial Lot / Homesite having a due date on or prior to the date such mortgage or deed of trust is filed of record have been paid. Sale or transfer of any Commercial Lot / Homesite shall not affect the assessment lien or liens provided for in the preceding sections. No such sale or transfer shall relieve such Commercial Lot / Homesite from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust filed prior to the time of transfer. Such subordination is merely a subordination and shall not relieve the Owner of the mortgaged or pledged property of his personal obligation to pay all assessments coming due at a time when he is the Owner.

6.13 Exempt Property. Each Commercial Unit / Homesite which is subject to this Declaration shall be exempt from the assessment, charges and liens created herein while owned by Declarant.

All Common Elements, including any Commercial Lot / Homesite which may be designated for use as such by Declarant, shall be exempt from the assessments, charges and liens created herein.

The grantee in conveyances made to utility companies for wells, tanks, pipelines, treatment plants and dispersion fields, liens, pumping stations and maintenance facilities or for the purpose of creating any utility easement;

All properties exempted from taxation by the laws of the State of North Carolina upon the terms and to the extent of such legal exemptions (Homestead exemptions shall not be considered an exemption);

ARTICLE 7

COMMON ELEMENTS

7.1 Common Elements. "Common Elements" means all real and personal property, together with those areas within dedicated portions of the Development Area and the Property, which may be deeded to, acquired or leased by the Association for the common enjoyment of the members of the Association; or, any reserved easement or structure that by this Declaration is the responsibility of the Association for ongoing maintenance, repair and replacement. It is the intention of Declarant that essentially all of the Development Area other than the Homesites will be conveyed to the Association at some point and be Common Elements, which includes, but is not limited to recreational sites, sewer and drainage areas, and other areas shown on any recorded plat other than Homesites. The Common Elements may consist of the remaining portion of the Property including, but not limited to, any real property conveyed to the Association, which may include but not be limited to, vehicles, equipment, and the ownership and / or maintenance of the roadsides, shoulders, landscape berms, drainage areas, landscaping, boundary fencing, signs at the entrances and along said roadways, any recreational site(s) and facility(s), maintenance building(s) and equipment, storm sewers, drainage, walking and jogging trails and gas line easements. The Common Elements shall ultimately consist of the remaining portions of the Development Area after deleting the (i) Commercial Lots, (ii) Homesites, (iii) Utility Areas, (iv) Parking Areas, and (iii) such other areas, if any designated to be excluded by Declarant on the filed plat or in this Declaration.

7.2 Easements Affecting Common Elements.

Subject to Declarant's Development Rights, the Members have an easement (i) in the Common Elements for purposes of access to their Commercial Lots or Homesites and (ii) to use the Common Elements and all real estate which may become Common Elements for all other purposes, except as otherwise provided in the Declaration.

The Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising special Development Rights reserved in the Declaration, including reserved access rights over, upon and through all streets.

Every Owner shall have a right and easement of enjoyment in and to the Common Elements owned by the Association, or for which the Association has maintenance responsibility, which shall be appurtenant to and shall pass with the title to every Commercial Lot and Homesite, subject to the following provisions:

The right of the Association to suspend the voting rights and right to use recreational facilities that are Common Elements by an Owner (and the occupants of such Owner's Commercial Unit or Residence Unit) for any period during which any assessment against said Owner's Commercial Lot or Commercial Unit or Homesite or Residence Unit remains unpaid; and for a period not to exceed sixty (60) days for an infraction by an Owner or by any tenant or occupant of such Owner's Commercial Unit Residence Unit of the Association's rules and regulations;

7.1.1 The right of the Association to dedicate or transfer, or to grant an easement in or to all or any part of the Common Elements to Declarant, any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association and the grantee expressed in an instrument agreeing to such dedication, transfer or grant, signed by the Association and placed upon the records of the Register of Deeds of Moore County;

7.1.2 The right of the Association to provide for the exclusive use by an Owner (or any tenant or occupant of an Owner's Commercial Unit or Residence Unit) of certain portions of the Common Elements at certain designated times and for such functions as may be from time to time permitted under said rules and regulations and the right of the Association to charge a fee for such exclusive use.

7.1.3 The reservation by Declarant of all necessary easements, including the right to grant easements, including but not limited to access, utility and drainage easements.

7.1.4 The right of the Declarant, in its sole discretion, and at no cost to any Owner, to grade, pave or otherwise improve any street shown on any recorded plat of the property.

7.1.5 The right of the Association to charge reasonable fees for the use of any recreational facility situated in the Common Elements.

7.1.6 The right of the Association, in accordance with the Declaration and Bylaws, to borrow money for the purpose of improving the Common Elements and in aid thereof to mortgage said property, and the rights of such mortgage in said properties shall be subordinate to the rights of the homeowners hereunder.

7.1.7 The right of the Declarant to develop The Planned Community and to sell or lease Commercial Lots or Commercial Units or Homesites or Residence Units to purchasers or lessees. As a material condition for ownership of a Commercial Lots or Commercial Units or Homesite or Residence Unit, each Owner releases Declarant from any claim that the Owner might have for interference with his quiet enjoyment of the Common Elements due to the development of The Planned Community, whether or not the construction operations are performed on the Common Elements or any Commercial Lots or Homesites owned by Declarant, and each Owner acknowledges and agrees that Declarant shall have the sole right to design, construction, development and improvement of the Property.

7.1.8 The right of the Declarant for so long as Declarant owns or has any use rights to any property subject to this Declaration, to transact any business necessary to consummate sales of the property throughout The Planned Community, including, but not limited to, the right to maintain sales office(s) within the Development Area, or on the Common Elements in locations(s) to be selected by Declarant, to have employees in such offices, to construct and maintain other structures or appurtenances which are necessary or desirable for the development and sale of the Property throughout The Planned Community including without limitation, sales models and parking areas; to post and display a sign or signs on any Commercial Lots or Commercial Units or Homesites or Residence Units owned by Declarant or the Property; and to use the Common Elements and to show Commercial Lots or Commercial Units or Homesites and Residence Units. Sales office signs and all other structures and appurtenances pertaining to the sale or development of property within The Planned Community shall not be considered Common Elements and shall remain the property of the Declarant. Further, Declarant may authorize other builder/developer(s) to exercise the rights reserved in this Section, singularly or in concert with Declarant.

7.1.9 The right of the Declarant to have a Permanent Sales Office Building and Operations after the expiration of the Declarant Control Period and after sales of all Commercial Lots / Homesites, including Commercial Lots / Homesites added pursuant to Article 2.2. No other commercial or real estate offices shall be located on the Common Elements or in The Planned Community. After the Declarant Control Period, regardless of whether Declarant owns or has any use rights to any property in the Planned Community, Declarant or its assignee shall have the right but not the obligation, to continue to exercise the rights granted to Declarant to sell and lease property at no cost or charge of any kind, except for the payment of ad valorem taxes on any property so occupied and that any such retained privilege shall be deemed to be one (1) Commercial Lots or Commercial Units or Residence Unit Homesite for which the Declarant or its assigns, shall be subject to Common and Special Expense assessment in the manner as all other Owners.

7.2 Usage Rights. The Common Elements shall be used only for the purposes for which they are intended in providing services and facilities for the common use and enjoyment of the Commercial Lots or Commercial Units or Homesite owners and occupants of the Commercial Lots or Commercial Units or Residence Units. There shall be no

obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements by an Owner without the prior written consent of the Association, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Elements by an Owner, except upon the prior written consent of the Association.

7.3 Area Boundaries and Conveyance of Common Elements. Each Commercial Lots or Commercial Units or Homesite or Homesite shall have the boundaries set forth in the plats filed in the County Registry of Deeds by Declarant as each phase is developed and on subsequent plats of additional property made subject to this Declaration. The Common Elements, as defined herein, when owned by the Association, shall remain undivided, and no right shall exist to partition or divide said Common Elements except as provided herein. The Common Elements are intended for the use and enjoyment of the Commercial Lots or Commercial Units or Homesite and Residence Unit owners and their tenants, guest and invitees. Title to the Common Elements shall remain vested in Declarant until the expiration of the Declarant Control Period. Notwithstanding the manner in which fee simple title is held, the Association shall be responsible for the management, maintenance and operation of the Common Elements and for the payment of all property taxes and other assessments which are liens against the Common Elements from the after the date of recordation of the Declaration. Reasonably soon after the expiration of the Declarant Control Period, Declarant shall convey all of its right, title and interest in the existing Common Elements to the Association. Such conveyance shall be free and clear of all encumbrances and liens other than this Declaration, and the terms and conditions recited herein and any reserved easements necessary for the beneficial use of any of Declarant's remaining property that is not then a part of the Property. Declarant shall also convey and the Association shall accept at its cost any permanent stormwater and/or soil erosion measures and systems required for the improvement of the Planned Community.

7.4 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, and subject to the terms and conditions recited herein, his right of enjoyment to the Common Elements and facilities to the members of his family, his tenants, or contract purchasers who reside in his Residence Unit.

ARTICLE 8

FINANCING PROVISIONS

8.1 Approval of Owners and Holders of First Deeds of Trust. Unless at least seventy-five (75%) percent of the owners and holder of first deeds of trust on Commercial Lots or Commercial Units or Homesites located within the Property have given their prior written approval, the Association shall not:

8.1.1 By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association. The granting of easements for utilities or other purposes or the conveyance of such systems to governmental bodies shall not be deemed a transfer within the meaning of this clause.

8.1.2 Change the method of determining the obligations, assessments, dues or other charges which may be levied against an owner.

8.1.3 By act or omission change, waive, or abandon any plan of regulation, or enforcement thereof pertaining to the architectural design or the exterior appearance of residences located on Commercial Lots or Commercial Units or Homesites, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings in the Planned Community.

8.1.4 Fail to maintain liability insurance coverage on the Common Elements.

ARTICLE 9

SEWAGE DISPOSAL AND WATER SYSTEM

9.1 Charges. Homesite Owners agree to pay any availability, connection or surcharge fee for water or sewer, which may be approved by the North Carolina Utilities Commission prior to connection to such system. All usage charges of any nature for the utilities shall be paid by the Owner.

9.2 Connection Procedure. No permits and/or approvals for the construction of improvements on any Commercial Lots or Commercial Units or Homesites shall be granted to and approved by the Architectural Review Board unless and until the Owner of a Commercial Lots or Commercial Units or Homesite desiring such approval shall have made satisfactory contractual arrangements with a licensed plumber, approved by Declarant for making connections to an on-site sewage disposal and/or the central water system for such property Owner's Commercial Lots or Commercial Units or Homesite.

9.3 Private Water Wells. If the Declarant and the Architectural Review Board determine, in their sole discretion, that private wells may be constructed and drilled, said private water wells may be constructed or drilled only with the prior written consent of and pursuant to the specific policies, terms and restrictions established by the Architectural Review Board; and water therefrom may be used only for irrigation and / or heating and cooling purposes, and temporary

potable use subject to the approval of local statutory regulations and then only until the permanent water system is installed unless approved by the Architectural Review Board otherwise.

ARTICLE 10

RESERVED EASEMENTS

10.1 Utility and Drainage Easements. Declarant and its successors and assigns reserve the right to construct and maintain utilities on the streets and roads of the Property either above or below ground and to make all necessary slopes for cuts or fills upon the Commercial Lots or Commercial Units or Homesites as needed as determined by the Declarant. Declarant and/or assigns reserve perpetual utility easements under, over and across a strip ten (10) feet (unless otherwise noted on any recorded map, in which case said map shall govern) in width adjacent to and along the front, side and rear yard lines of each Commercial Lots or Commercial Units or Homesite for the purpose of placing, laying, erecting, constructing, maintaining and operating, or of authorizing the placement, laying, erection, construction, maintenance and operation of utilities (including, without limitation, sewage, water(including irrigation), storm drainage, culverts, sprinkler lines, natural gas lines, TV wires, irrigation lines, security wires, street lights, electricity, gas, cablevision, telephone and telegraph). Within these easement areas, no structure, planting or other material (other than sod) which may interfere with the installation and maintenance of underground utility facilities shall be placed or permitted to remain unless such structure, planting or other material was installed by the Declarant. The Association, its successors and assigns, are hereby granted access to all easements within where such underground facilities are located for the purpose of operation, maintenance and replacement thereof.

10.2 No Interest in Utilities. The interest conveyed by Declarant to any of said Commercial Lots or Commercial Units or Homesites by contract, deed or other conveyance, shall not in any event be held or construed to include the title to the water, gas, cablevision, sewer, storm sewer, electric light, power, telegraph and telephone lines, poles or conduits, or any other utility or appurtenances thereto constructed by Declarant, its agents, or by any utility company along or upon said Commercial Lots or Commercial Units or Homesites, or any part thereof, to serve said property. The right to sell, convey or lease water, sewer and other utility lines and their appurtenances erected by or on behalf of Declarant is hereby expressly reserved to Declarant.

10.3 Easement for Use of Streets. Declarant hereby grants, conveys and assigns and sets over to every Owner, his family, tenants or bona fide guests the non-exclusive right of ingress, egress and regress over, upon and across the streets within the Property and they shall have the use of said streets for access to and from public highways adjoining the properties. The Declarant and/or the Association reserves the right at any time hereafter to dedicate and convey such streets to any appropriate governmental body or to the public, or to the Homeowner's Association.

10.4 Master Electronic Reception Apparatus. With the prior written consent of the Association, which may be withheld at its sole discretion, master antennas, satellite dishes, or cable television facilities may be located upon certain portions of the Property by the Association. Any such antennas, satellite dishes and connections shall be maintained in good order and repair by the Association. To the extent required to effectuate the foregoing plan, there shall be an easement in favor of each Commercial Lots or Commercial Units or Residence Unit for the purpose of providing connection of the Commercial Lots or Commercial Units or Residence Unit with the cable television facility or the master antenna or satellite dish most convenient thereto. The Common Elements shall be subject to a further easement for the placement thereon by the Association of such master antennas, satellite dishes, cable television facilities and appurtenances, and for the installation and maintenance thereon of connections to serve any Commercial Lots or Commercial Units or Residence Unit. All of the foregoing easements are granted and reserved subject to the condition that their use and enjoyment shall not materially interfere with the use, occupancy or enjoyment of all or any part of the Commercial Lots or Commercial Units or Residence Unit and the Common Elements servient to such easements or to which such easements are appurtenant. No other mast, tower or pole or outside television antenna, satellite dish, aerial or pole shall be erected, constructed or maintained on any Commercial Lots or Commercial Units or Homesite or Residence Unit located in such a manner as to be visible from the Commercial Lots or Commercial Units or Homesite or outside of such Commercial Lots or Commercial Units or Residence Unit unless express approved by the Declarant.

10.5 Inspection and Maintenance. Any Member of the Board, or any other person authorized by the Board, shall have an access easement to all Common Elements for the purpose of inspection, maintenance, repair or replacement of any part of the Property.

10.6 Other Reserved Easements. There is hereby reserved easements as noted on the Planned Development for a jogging and/or walking trail.

ARTICLE 11

VARIANCES

11.1 Variances. The Architectural Review Board or the Declarant shall have power to and may allow reasonable variances and adjustments of these covenants, conditions and restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the regulations contained herein; provided, however, that such is done in conformity to the intent and purposes hereof; and, provided, also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements located in the Property. Variances and adjustments may include, but not be limited to, height, size and setback requirements hereunder pursuant to the Policies and Procedures established by the Architectural Review Board. To be effective, a Variance must be recorded and indexed under the name of the Association and the Owner

ARTICLE 12

INSURANCE AND CASUALTY LOSSES

12.1 Insurance. The Board or its duly authorized agent shall have the authority to and shall obtain and maintain in effect insurance for all of the improvements which are a part of the Common Elements against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full replacement cost (subject to such “deductibles” as the Board may determine) of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board shall also obtain and maintain in effect casualty and public liability insurance covering all Common Elements, such workmen’s compensation insurance as may be required by law, all insurance which it may be required or authorized to obtain according to any amendment to this Declaration (all of which insurance shall be in accordance with the provisions of this Declaration), and such other insurance as the Board may from time to time deem appropriate and fidelity bond coverage as specified in FNMA Lending Guides, Chapter 3, Part 5, Insurance Requirements. Premiums for all such insurance shall be an expense of the Association.

12.2 Policies. All policies shall be written with a company holding a rating of “AAA” or “AA” or better by Best’s Insurance Reports. All policies shall be for the benefit of the Association and its mortgagees as their interests may appear. The original of all policies and endorsements thereto shall be deposited with the Board. The exclusive authority to adjust losses under policies maintained by the Board shall be vested in the Board or its duly authorized agent; provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto. In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Owners or their mortgagees. Provision shall be made for the issuance of a certificate of insurance to each Owner and his mortgagee, if any, which shall specify the proportionate amount of such insurance attributable to the particular Owner’s Commercial Lots or Commercial Units or Homesite or Residence Unit. The Board shall conduct an annual insurance review which shall include a replacement cost appraisal, without respect to depreciation, of all improvements on the Common Elements by one or more qualified persons, at least one of whom should be a qualified building cost estimator. It shall be the individual responsibility of each Owner, at his own expense, to provide, as he sees fit, title insurance, homeowner’s liability insurance, fire, casualty, theft and other insurance covering improvements, betterments and personal property damage and loss on his individual Commercial Lots or Commercial Units or Homesite and Residence Unit. The Board or its duly authorized agent shall be required to make every effort to secure insurance policies that will provide for the following: (I) a waiver of subrogation by the insurer as to any claims against the Board of Directors, its duly authorized agent, the Owners, and their respective tenants, servants, agents and guests; (ii) a waiver by the insurer of its right to repair or reconstruct instead of paying cash; (iii) that the policies cannot be canceled, invalidated or suspended on account of anyone or more individual Owners; that the policies cannot be canceled, invalidated or suspended on account of the conduct of any director, officer or employee of the Association, or its duly authorized agent, without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its agent or any Owner; (v) that any “other insurance” clause in the master policy exclude individual Owner’s policies from consideration.

12.3 Use of Proceeds. If the damage is confined to the Common Elements, such insurance proceeds shall be used by the Association to defray the cost of such repairs. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be retained by the Association or its duly authorized agent and placed in the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the Common Elements. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess may be provided either by means of a special assessment levied by the Board against all Owners in proportion to each Owner’s share in the Common Elements or by means of an appropriation from the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the Common Elements as the Board, in the exercise of its sole discretion, may determine.

ARTICLE 13

MAINTENANCE / REPAIR

13.1 Commercial Units/Buildings or Residence Units. Each Owner, at his own expense, shall keep all of their Commercial Lots or Commercial Units or Homesite and Residence Unit and all exterior walls, roofs, equipment and fixtures therein, landscaping, water, storm drainage, sanitary sewer and other utility lines serving only their Commercial Lots or Commercial Units or Residence Unit in good order, condition and repair and in a clean and sanitary condition, and shall be responsible for all redecorating and painting necessary to preserve or maintain the good condition and appearance of the Commercial Lots or Commercial Units or Residence Unit, the patios, terraces, balconies, verandas and storage facilities, if any, and all other improvements and landscaping located on the Commercial Lots or Commercial Units or Homesite. Each Owner shall also be responsible for all damages to any Commercial Lots or Commercial Units or Residence Unit or any of the Common Elements, which may result from the neglect, negligence, misuse or misconduct of such Owner, Members of his family, his or their tenants, guests, employees, agents, invitees or tenants, and the cost of repair of any such damage shall be charged to such Owner and shall be due and payable as provided in Article 6 hereof.

ARTICLE 14

CONDEMNATION

14.1 General. Whenever all or any part of the Common Elements of the Property shall be taken by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Association.

14.2 Common Elements. If the taking includes any part of the Common Elements on which improvements shall have been constructed (other than those contained within any Commercial Lots or Commercial Units or Residence Unit) and if at least ninety percent (90%) of the total vote of the Association shall decide within sixty(60) days after such taking to replace said improvements, or any part thereof, on the remaining land included in the Common Elements and according to plans therefor first approved by the Association, then the Board of Directors shall arrange for such replacement. Alternatively, the Association shall treat the funds as a surplus.

ARTICLE 15

NOTICES

15.1 Form of Notice. Any notice required by the Act or by any of the documents shall be a written notice delivered to the recipient or mailed to him by United States mail, postage prepaid, at his last known address if the recipient is an individual, or addressed to the President of the Association, if the recipient is the Association or the Board. All notices delivered by mail shall be deemed to have been given as of the date and hour of the postmark thereon, or in the absence of such postmark, as of the date and time of mailing. The address of a Commercial Lots or Commercial Units or Homesite or Residence Unit Owner reflected on either the Moore County Tax Department records or the records maintained by the Secretary of the Association shall be the address of each Owner for making of all notices required from the Board or the Association, and it shall be the responsibility of each Owner to furnish the Secretary written notice of any error in such records or change of address.

15.2 Agent to Receive Service of Process. All notices, stipulations, writings or processes to be served upon the Association, or upon the Board shall be delivered to the Registered Agent of the Association or to the then acting President of the Association.

ARTICLE 16

TERM

16.1 Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2040, at which time said covenants shall be Automatically extended for successive periods of ten (10) years unless by vote of a Majority of the then Owners of the Commercial Lots or Commercial Units or Homesites covered by these or substantially identical covenants, it is agreed to change said covenants in whole or in part.

16.2 Covenants Running with Land. The provisions of this Declaration and related documents shall constitute covenants running with the land, binding on the undersigned, its successors and assigns, and on all subsequent Owners of any part of the Property, together with their grantees, successors, heirs, executors, administrators, devisees, lessees, subleases and assigns. By the acceptance of any deed or other document conveying or transferring any interest in a Commercial Lots or Commercial Units or Homesite or Residence Unit, the recipient thereof accepts and ratifies all covenants and restrictions contained herein and in the other documents. Each Commercial Lots or Commercial Units or Homesite or Residence Unit Owner, by the acceptance of said deed or other document, covenants and agrees each with the other that he will join in the execution of any and all documents which are deemed necessary by the Board to renew or

extend said covenants and restrictions from time to time and that any provision of law removing any limitation of time which would apply to this Declaration, if this Declaration were made after such provision of law becomes of effect, shall be deemed automatically to apply to this Declaration retroactively.

ARTICLE 17

ASSIGNMENT / AMENDMENT

17.1 Assignment. Any or all of the rights, powers and obligations, easements and estates reserved by or granted to the Declarant may be assigned by the Declarant as the case may be. Any such assignment or transfer shall be made by the appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its consent to such assignment and its acceptance of the rights and powers, duties and obligations herein contained. Such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to the Declarant. After such assignment, Declarant shall be relieved and released of all obligations with respect to such rights, powers, obligations, easements or estates.

17.2 Amendments by Declarant. After the first conveyance of a Commercial Lots or Commercial Units or Homesite by Declarant, Declarant shall retain the right to make any of the following amendments, which may be effected by the Declarant without consent of the Owners: (A) The Declarant or Association may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction. (B) The Declarant or Association shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Commercial Lots or Commercial Units or Homesites and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of the United States Government, the State of North Carolina, Moore County or the Town of southern Pines regarding purchase or sale in such Commercial Lots or Commercial Units or Homesites and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of Property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. © Any amendment allowed as a result of the exercise of any reserved Development Right or Special Declarant Right identified herein. Any amendments made pursuant to this section shall not affect the commercial, residential, mix use character of the Planned Community or the common plan or scheme for commercial, residential, mix use development. Any and all such amendments shall be recorded in the office of the Register of Deeds, and upon recording the same shall become effective with respect to the matter to which such amendment pertains. Other amendments which do not affect materially any rights of any then Owners or his mortgagee or any amendment necessary to effect compliance with any other law may be made by Declarant by recording the same in the foregoing manner at any time prior to the earlier of (i) the date on which Declarant certifies to the Association that all of the Commercial Lots or Commercial Units or Homesites have been conveyed to respective purchasers, or (ii) January 1, 2040. In the event that any such amendment does affect materially any rights of any then Owners or his mortgagee, such amendment shall be valid only upon the written consent thereto of all of the affected mortgages and fifty percent (50%) of the affected Owners of Commercial Lots or Commercial Units or Homesites or Residence Units theretofore conveyed by Declarant. Any such amendment shall be certified by Declarant as having been duly approved and shall be effective when recorded in the office of the Register of Deeds.

17.3 Amendments by Commercial Lots or Commercial Units or Residence Unit or Homesite Owners. At any time after the expiration of the Declarant Control Period, this Declaration shall be amended in the following manner:

17.3 Proposed Amendments. The Board or any Member of the Association may propose an amendment to this Declaration. Such proposed amendment must be submitted in writing to the Secretary of the Association at least twenty (20) days prior to the date of the special or regular Association meeting at which the proposal is to be considered.

17.5 Notice. A statement of the subject matter of the proposed amendment or amendments shall be included in the notice of any Association meeting at which the proposed amendments are to be considered.

17.6 Resolution. A resolution for the adoption of a proposed amendment may be proposed by any Member of the Association, including any officer of the Board. The resolution for adoption must be approved by the Members entitled to cast not less than sixty-six and two-thirds (66 2/3%) of the total authorized vote of the Association; provided, however, that any proposed amendment which would increase or decrease the percentage vote required to effect any action by the Association must be approved by Members having, in the aggregate, the larger of such percentage vote as theretofore required or as would thereafter be required if such amendment were approved.

17.7 Absentee Vote. Members not present at any meeting may vote by proxy or by written vote as provided in the Bylaws.

17.8 Proviso. Notwithstanding any other provision hereof, no amendment shall change the boundaries of a Commercial Lots or Commercial Units or Homesite or Residence Unit nor the share in the Common Elements

appurtenant to it, unless the record Owners of all Commercial Lots or Commercial Units or Homesites and/or Residence Units shall approve the amendment in writing, and so long as Declarant owns three or more Commercial Lots or Commercial Units or Homesites or Residence Units, no amendment may be made without the written approval of Declarant.

17.9 Execution and Recording. A copy of each amendment adopted pursuant to this Article shall be attached to an affidavit certifying that the amendment was duly adopted, which affidavit shall be executed by the President and attested by the Secretary in recordable form. The amendment shall be effective when such Amendment together with the Affidavit are filed for record in the Office of Register of Deeds.

ARTICLE 18

ENFORCEMENT

18.1 Violation of Covenants. If the parties hereto or the Owners, or any subsequent third parties, or their heirs, successors or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property herein described or situated in The Planned Community and which is subject to these or substantially identical covenants to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant to prevent it, her, him or them from so doing and / or to recover damages or other expenses arising from said violation. In addition, the Association and to the limited extent provided in Article 4.2.3, shall have the authority, at their sole option and discretion, to enforce the terms, conditions and covenants recited herein; provided, however, neither the Board nor the Architectural Review Board have the specific obligation to enforce any covenants herein, and neither shall be liable for any failure to enforce said terms, covenants and conditions.

18.2 Invalidity. Invalidation of any one of these covenants or any part thereof by judgment or court order in no way affects any of the other provisions which shall remain in full force and effect.

18.3 Laws and Ordinances. These covenants shall be in addition to any laws, ordinances, governmental zoning or regulations which maybe applicable to the Property herein described, and in the event such laws, regulations or ordinances may be more restrictive than these covenants, said laws, regulations or ordinances shall control.

ARTICLE 19

REMEDIES FOR VIOLATIONS

19.1 All provisions, restrictions, conditions, easements, covenants, agreements, liens and charges herein shall be binding on all of the Commercial Lots or Commercial Units or Homesites within the Property and the Owners thereof, regardless of the source of title of such Owners, and any breach thereof if continued for a period of thirty (30) days [five (5) days in the event of an emergency situation] from and after the date that Declarant, the Association, or any other Owners shall have notified in writing the Owner or resident in possession of the Commercial Lots or Commercial Units or Homesite or Residence Unit upon which or as to which such breach has been committed to refrain from a continuance of such action and to correct such breach, shall warrant the Declarant, the Association or other Commercial Lots or Commercial Units or Homesite Owner, to apply to any court of law or equity having jurisdiction thereof for any injunction or other property relief, and if such relief be granted, the court may, in its discretion, award to the plaintiff in such action reasonable expense in prosecuting such suit, including reasonable attorney's fees.

19.2 Violations of any of the foregoing provisions, restrictions, conditions, easements, covenants, agreements, liens and charges shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any Commercial Lots or Commercial Units or Homesite or portion thereof in the Property but such provisions, restrictions, conditions, easements, covenants, agreements, liens, and charges shall be enforceable against any portion thereof acquired by any person through foreclosure or by deed in lieu of foreclosure for any violation of the provisions, restrictions, conditions, easements, covenants, agreements, liens and charges herein contained occurring after the acquisition of said property through foreclosure, or deed in lieu of foreclosure.

ARTICLE 20

DECLARANT EXEMPTIONS

20.1 Notwithstanding any other language or provision to the contrary to this Declaration or in any of the other related documents, Declarant shall be exempt from the covenants, restrictions and provisions contained in herein, so long as Declarant owns one or more Commercial Lots or Commercial Units or Homesites or Residence Units. This exemption is granted for the purpose of allowing Declarant to complete improvements and complete the sale (or lease with option to purchase) of all Commercial Lots or Commercial Units or Homesites and Residence Units without restriction. Neither the Owner, the Association nor any use of the Property shall interfere with completion of construction of the buildings, the Commercial Lots or Commercial Units or Residence Units or other improvements, or with the sale of the Commercial Lots or Commercial Units or Homesites or Residence Units by Declarant. Declarant may make such use of the unsold

Commercial Lots or Commercial Units or Residence Units and Common Elements as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, model units, signs, storage areas, construction facilities and construction offices for the sale of the Commercial Lots or Commercial Units or Homesite and sale and construction of the Commercial Lots or Commercial Units or Residence Units covered by this Declaration.

ARTICLE 21

MISCELLANEOUS

21.1 Multiple Owners. If any Commercial Lots or Commercial Units or Residence Unit or Homesite shall be owned as tenants in common by two or more persons, such persons shall be jointly and severally liable for the Common Expenses assessed against such Commercial Lots or Commercial Units or Homesite or Residence Unit and for the prompt discharge of each and every obligation or duty imposed on such Owners by the Declaration and other governing documents.

22.2 Applicability to Third Parties. Each Owner of a Commercial Lots or Commercial Units or Homesite and each Owner, lessee, tenant or occupant of a Commercial Lots or Commercial Units or Residence Unit shall be bound to comply with the statutory provisions and shall comply with documents as the same maybe in effect from time to time and with the decisions, resolutions, rules and regulations of the Association, and Declarant as the same may be in effect from time to time, and failure to do so shall be grounds for an action to recover damages or to obtain injunctive and other equitable relief, or both.

22.3 Conveyance. Each Owner of a Homesite, by acceptance of a deed therefor, agrees that he has had full opportunity to inspect and examine same and waives any claim or demand which he might otherwise have had against the Declarant or any other person whomsoever as a result of any warranty, express or implied, or of any discrepancy between the Commercial Lots or Commercial Units or Homesite as it then exists and as it is described in this Declaration, filed plats, the supplemental plats, the architectural plans and specifications or any other instrument.

22.4 Perpetuities. In any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the date of the survivor of the now living descendants of Joe Biden, President of the United States, and Barack Obama, Donald Trump, Bill Clinton, Jimmy Carter, George W. Bush, and George H.W. Bush, former Presidents of the United States.

22.5 Severability. Invalidation of any of these covenants or restrictions by judgment or court shall in no way affect any other provisions, which shall remain in full force and effect.

22.6 Rights of Mortgagees. Any mortgagee holding a first mortgage on any Commercial Lots or Commercial Units or Homesite or Residence Unit may require that the loan documents evidencing and securing such loan contain provisions relating to reserve accounts for repairs and replacements, additional insurance, voting rights and such other matters as may be acceptable to the mortgagee and the Owner. However, such provisions shall be binding only as between such mortgagee and Owner and no such provision shall violate, restrict or modify the provisions of this Declaration and the other governing documents.

22.7 Declarant's Facilities. No Commercial Lots or Commercial Units or Homesite or Residence Unit Owner or any other person shall have any rights of any nature, express or implied, in any adjacent recreational or other facility owned by Declarant or other party not included as a part of the Property. Declarant shall have the unrestricted right at any time, and from time to time, to lease, mortgage or otherwise convey or encumber, modify, close, terminate, limit operations and the membership, expand and otherwise manage and control any such facilities and other property.

22.8 Inspection and Maintenance. If any Property, including any Commercial Lots or Commercial Units or Homesite or Residence Unit is not maintained as provided herein, Declarant shall have the right, but not the obligation, to maintain same and recover from the Association and the respective Owners at costs incurred in providing such maintenance. Any Member of the Board, Declarant's maintenance personnel, or any other person authorized by the Board, shall have reasonable rights of access to all Common Elements and Commercial Lots or Commercial Units or Homesites for the purposes of inspection, maintenance, repair or replacement of any part of the Property as provided in this section.

22.9 Waiver. The failure of the Association, the Declarant or any Commercial Lots or Commercial Units or Homesite or Residence Unit Owner to enforce any covenant, restriction or other provision of the documents shall not constitute a waiver of the right to do so thereafter.

22.10 Construction. If any provision, sentence, clause, phrase or word of this Declaration or any other Association document is judicially held invalid or unenforceable for any reason, such holding shall not be deemed to affect, alter, modify or impair in any manner any other provision herein or in said documents. Whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders. The captions used herein and in the other Association documents are solely to aid in the location of the various provisions, and in no way shall such captions be construed to limit or define the subject matter of such provisions.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed and attested by its duly authorized corporate officers, and its corporate seal, or a reasonable facsimile thereof, to be affixed, all at the direction and approval of its Directors, to be effective the day and year first above written.

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Agenda Item

To: Reagan Parsons, Town Manager

From: James Michel, Town Engineer

Subject: RA-03-22: Request for Abandonment of Town
Right-of-Way to Vacate Section of W. Wisconsin Avenue
and S. Bennett Street

Date: October 11, 2022

I. SUMMARY OF REQUEST:

Colin Webster, on behalf of Bantembo, LLC, has submitted a request for the abandonment of 867.92 SF of right-of-way at the corner of W. Wisconsin Avenue and S. Bennett Street (see Figure 1) that is currently identified as PIN 858100075356 (PARID 20200114) and located adjacent to the parcel currently owned by Bantembo, LLC and identified as PIN 858100075283 (PARID 20190227) (see Exhibit A).

II. STAFF COMMENTS:

The request to vacate a portion of this right-of-way (ROW) was discussed during the Special Use Permit process for the SU-03-21 Townhouses on Bennet project. It was determined that as little ROW as possible would be vacated in accordance with review by the Town Engineer. The Town Engineer reviewed the requested ROW vacation during the site plan process and agrees that the amount requested is the minimum amount needed and still provides adequate area for sight distances and maintenance of existing Town infrastructure.

There is no public transportation infrastructure nor are there any public utilities located within the subject portion of the right-of-way. Pursuant to NCGS §160A-299 and UDO §2.29, in order for a public right-of-way to be abandoned, a Resolution of Intent to Vacate a Section of Town Right of Way must be adopted by the Town Council and a public hearing regarding the request must be held. A draft of the Resolution for the Council's consideration is attached to this report.

Figure 1: Vicinity Map (approximate location of right-of-way outlined in red)



III. ATTACHMENTS:

1. Request to abandon the right-of-way
2. Draft Resolution

IV. TOWN COUNCIL ACTION:

The Town Council is being asked to consider a Resolution to call for a public hearing on a request to vacate a section of Town rights-of-way for W. Wisconsin Avenue and S. Bennett street based upon the provisions outlined in UDO §2.29. The Council may choose one of the following motions, or any alternative they wish:

- 1) **I move to** approve the Resolution calling for a public hearing on a request to vacate a section of Town rights-of-way for W. Wisconsin Avenue and S. Bennett Street under application RA-03-22.

OR

- 2) **I move to** deny approval of the Resolution calling for a public hearing on a request to vacate a section of Town rights-of-way for W. Wisconsin Avenue and S. Bennett Street under application RA-03-22.

Bantembo, LLC
PO Box 1872
Southern Pines, NC 28388

August 14th, 2022

Mr. Reagan Parsons,
Town Manager
Southern Pines, NC 28387

RE: Right of Way Abandonment Corner of Wisconsin and South Bennett Streets

Dear Reagan,

On behalf of Bantembo, LLC I'm respectfully requesting the partial abandonment of a portion of the Right of Way on the corner of Wisconsin and South Bennett Streets as submitted, and agreed, to by the Town Council last January 11th, 2022, in connection with our Townhouse project on the adjacent property (copy of the recorded Decision is attached).

The property identifier is 20200114. Per the attached site plan, we propose to make use of approximately 868 sqft out of the approximately 2,117 sqft in that right of way.

The Town's UDO under section 2.29 provides guidance for the process leading to the abandonment of a street or alley. This request is only for the abandonment of a portion of the right of way. No streets or alleys are affected. 2.29 is silent on abandonment of rights of way, but right of way abandonments does appear in the wording under Appendices (A31) which provides a checklist for the abandonment process for Streets, Plats or Easements.

This has been reviewed with the Public Works Director Mr. James Michel who has determined there is no adverse impact on the Town's utilities.

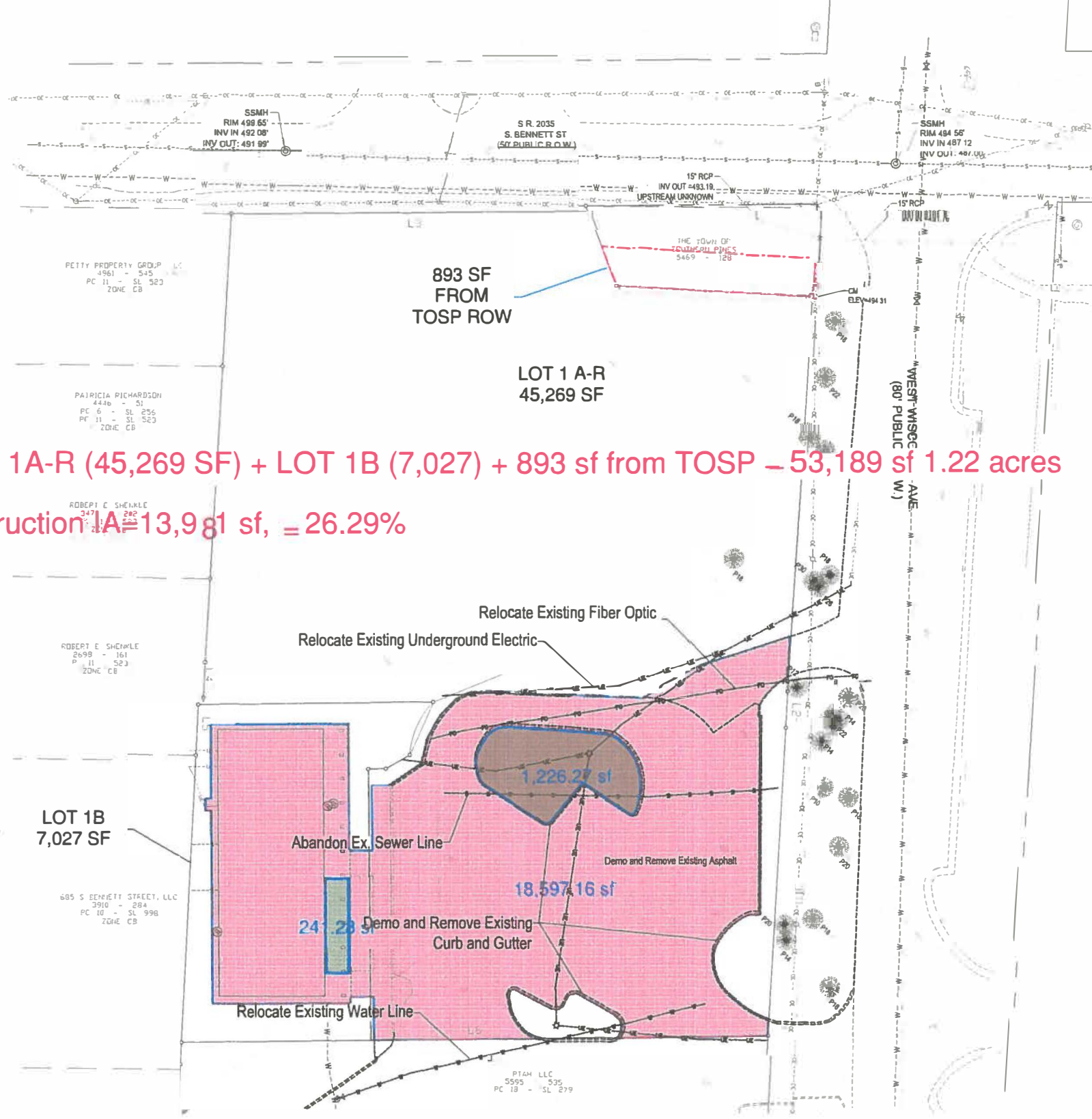
While I don't believe this case requires further consideration, If you believe a process of abandonment needs to be followed then please accept this request for the right of way abandonment to be further considered by the Town Council pursuant to UDO section 2.19, to advertise and conduct a public hearing at its next available meeting.

Very respectfully,

Colin S. Webster
Manager
Bantembo, LLC
PO Box 1872
Southern Pines, NC 28388



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Site = Lots 1A-R (45,269 SF) + LOT 1B (7,027) + 893 sf from TOSP – 53,189 sf 1.22 acres
Pre Construction 1A=13,981 sf, = 26.29%

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www.crawforddsn.com



JOHN G. MATTHEWS
Matthews Land Surveying & Mapping, PLLC
103 Monroe St Suite 104 Carthage, NC 28327
910-847-2871

REVISIONS

BANTER BO LLC
TOWNHOMES ON BENNETT

Project Manager
CAD Technician
Reviewed / Approved By
Date
11/15/2021

Full Scale: Horiz. 1" = 20'
Vert. Scale: 1" = 40'

11/15/2021

C16.06

TOWN OF SOUTHERN PINES RESOLUTION #1029
NOTICE OF INTENT TO VACATE SECTION OF TOWN RIGHT-OF-WAY
FOR WEST WISCONSIN AVENUE AND SOUTH BENNETT STREET
RA-03-22

WHEREAS, Bantembo, LLC has submitted a request for the vacation of a section of right-of-way for West Wisconsin Avenue and South Bennett Street;

WHEREAS, G.S. 160A-299 authorizes the Town of Southern Pines Town Council to close any street or public alley within the Town;

WHEREAS, the Town of Southern Pines owns the aforementioned section of right-of-way; and

WHEREAS, the section of right-of-way for which the petitioner has requested vacation is shown on the Town street listing and transportation map; and

WHEREAS, the Town has no current or future plans to improve the section of right-of-way; and

WHEREAS, the existing Town sewer and water lines along the South Bennett Street and West Wisconsin Avenue rights-of-way are not located within the section of right-of-way to be vacated; and

WHEREAS, pursuant to § 2.29.2 of the Unified Development Ordinance, in order for a street or alley to be vacated, the Town Council must adopt a Resolution of Intent to Vacate and hold a public hearing.

NOW THEREFORE, BE IT RESOLVED by the Town of Southern Pines Town Council at its regular business meeting held on October 11, 2022 that:

1. The Town of Southern Pines hereby intends to vacate the section of right-of-way for West Wisconsin Avenue and South Bennett Street as shown on the map attached hereto as Exhibit A.
2. A public hearing will be held during the regular business meeting of the Town of Southern Pines Town Council on November 8, 2022 at 6:00 PM to consider adopting an Order to vacate the section of Town right-of-way for West Wisconsin Avenue and South Bennett Street as shown on the map attached hereto as Exhibit A.

Adopted this the 11th day of October, 2022.

ATTEST:

TOWN OF SOUTHERN PINES:

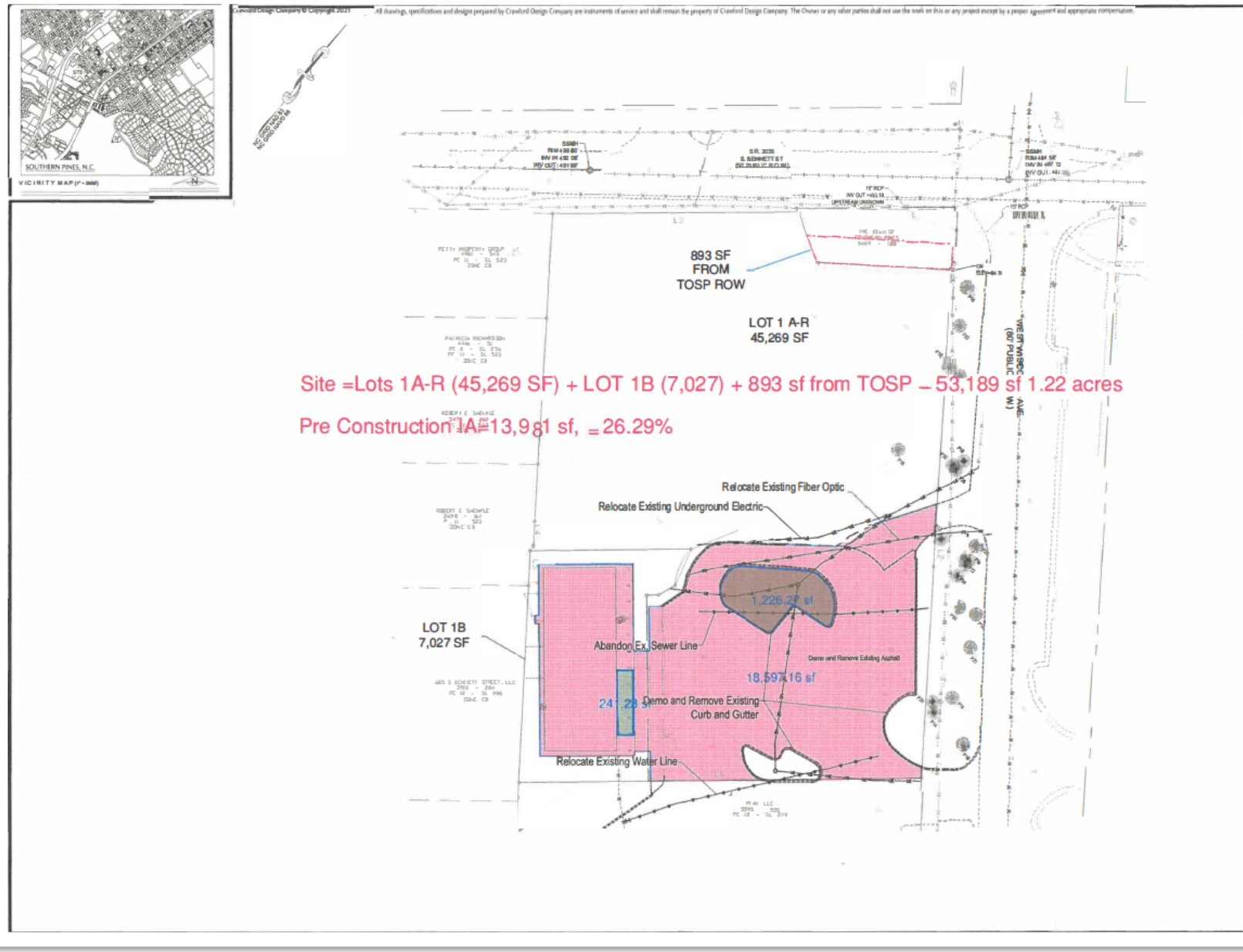
Elizabeth Robertson, Town Clerk

Carol R. Haney, Mayor

I certify that this Resolution was adopted by the Town Council of the Town of Southern Pines at its meeting on October 11, 2022, as shown in the Minutes of the Town Council meeting for that date.

Elizabeth Robertson, Town Clerk

Exhibit A



Agenda Item

To: Reagan Parsons, Town Manager

From: BJ Grieve, Planning Director
Cindy Williams, Planning Technician

Subject: WP-02-22: Watershed Protection Permit Request; 5/70 Allocation to Develop Townhomes at 600 SW Broad Street; Applicant: Bantembo, LLC

Date: October 11, 2022

I. SUMMARY OF APPLICATION REQUEST:

Kevin Lindsay, on behalf of Bantembo, LLC, has submitted an application for a Watershed Protection Permit requesting 1.22 acres of 5/70 exemption allocation to develop 20 single-family attached dwelling units, which will result in 70% total impervious surface on the subject property which is located within the High Quality portion of the Little River Intake No. 2 Watershed within the Cape Fear River Basin. Should the Town Council wish to grant the 5/70 exemption under Watershed Protection Permit WP-02-22, the Town shall deduct 1.23 acres from the Little River Intake No. 2 Watershed tally sheet. The subject parcels are identified as Lot 1A-R and Lot 1B on a plat entitled "*Recombination Survey for Bantembo, LLC*" recorded in Plat Cabinet 19 at Slide 127. The parcels are currently zoned Central Business (CB) and identified as PIN 858100075181 (PARID 20210430) and PIN 858100075283 (PARID 20190227). Per the Moore County tax records, the property owner is listed as Bantembo, LLC.

II. PROJECT INFORMATION:

A. Property Owner & Petitioner Information:

i. Current Property Owner/Applicant:

Bantembo, LLC
PO Box 1872
Southern Pines, NC 28388

ii. Authorized Agent:

Kevin S. Lindsay, PE
Crawford Design Company
230 W. Pennsylvania Avenue
Southern Pines, NC 28387

B. Property Information:

i. Street Address:

600 SW Broad Street
Southern Pines, NC 28387

ii. Property Identification Numbers (PIN) & Parcel Identifications:

PIN: 858100075181 (PARID 20210430)
PIN: 858100075283 (PARID 20190227)

iii. Size of Property:

Total Combined Acreage: 1.22

C. Description of Proposed Development:

Bantembo, LLC plans to construct twenty (20) single-family attached dwelling units on approximately 1.22 acres of property located at the corner of South Bennett Street and West Wisconsin Avenue pursuant to Special Use Permit SU-03-21 which was approved by the Town Council on January 11, 2022. The site will be covered with approximately .86 acres (70%) of total impervious surface.

D. Property Zoning Classification:

The subject property is zoned Central Business (CB).

Figure 1: Vicinity Map (Subject Property Outlined in Bold Red).



Figure 2: Zoning Map (Subject Property Outlined in Blue)



Historic District	
Zoning Text	
Zoning 50% Transparent	
CB, Central Business	
CB-CD, Central Business	
Conditional District	
FRR, Facilities Resources	
Recreation	
FRR-CD, Facilities Resources	
Recreation Conditional District	
GB, General Business	
GBCD, General Business	
Conditional District	
I, Industrial	
NB, Neighborhood Business	
NBCD, Neighborhood Business	
Conditional District	
OS, Office Services	
OSCD, Office Services	
Conditional District	
PD, Planned Development	
RE, Rural Estates	
RE-CD, Rural Estates	
Conditional District	
RM-1, Residential Single & Multi-Family	
RM-2, Residential Single & Multi-Family	
RR, Rural Residential	
RR-CD, Rural Residential - Conditional District	
RS-1, Residential Single Family	
RS-1CD, Residential Single Family - 1 Conditional District	
RS-2, Residential Single Family	
RS-2CD, Residential Single Family - 1 Conditional District	

E. Staff Comments:

- The entirety of the property is within the Little River Intake #2 (LR#2) Watershed and is therefore subject to the Watershed Protection Overlay District and the standards set forth in UDO §3.6.8.
 - The subject property lies within the High Quality Water/Protected Area portion of the Little River Intake No. 2 Watershed.
 - The proposed development is required to obtain the 5/70 exemption allocation because the proposed improvements will exceed the maximum of 12% built upon area or 24% built-upon land area with implementation of stormwater BMPs within the High Quality Water/Protected portions of the watershed.
 - A total of 0.86 ac. of total built-upon land area, or 70% of the subject property is proposed.
 - Should the Town Council wish to grant the 5/70 exemption, the entirety of the project acreage (1.22 acres) will be deducted from the 5/70 tally sheet for the Little River Intake No. 2 Watershed.
 - The Watershed Protection Permit, if approved, will provide the project with the 5/70 exemption allowing the project to develop up to the 70% built-upon land area.
- The 5/70 exemption for the Town of Southern Pines went into effect in 1993 and allows the Town to develop 5% of our watershed to a 70% impervious level.
- All development in the Town's watershed constructed prior to 1993 is statutorily defined as pre-existing development and considered to be exempt from the requirement to obtain the 5/70 exemption. All new development within a watershed shall be subject to the current watershed standards and eligible projects may pursue the 5/70 exemption.
- The UDO defines the Protected Area as "The area adjoining and upstream of the Watershed Critical Area in which protection measures are required. Unless otherwise modified by the Town, this area corresponds with the state's High Quality Water (HQP) area. The boundaries of the protected area are defined as extending ten (10) miles upstream and draining to the Cape Fear, lower Little River #2 public water supply intake or the ridge line of the Watershed (whichever comes first). The Town may extend the Protected Area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the Protected Area if these landmarks are immediately adjacent to the appropriate outer boundary of ten miles."

- Per UDO Exhibit 3-14, the 5/70 Exemption standards dictate the following for the High Quality Water (HQW) / Protected Area:
 - New Development shall be limited to one (1) Dwelling Unit per acre or twelve (12) percent built upon land area unless (a) the development disturbance area is less than one (1) acre or (b) BMPs or another approved stormwater management based practices are used. New Development with a development disturbance area less than one (1) acre shall be limited to two (2) Dwelling Units per acre or twenty-four (24) percent built upon land area. New Development utilizing BMPs or another approved stormwater management based practices shall be limited to two (2) Dwelling Units per acre or twenty-four (24) percent built-upon land area in the Watershed outside of the Critical Area.
- All allocations shall be deducted from the five percent (5%) total area allocation and shall be monitored by the Planning Department.
- If this exemption is granted, a state stormwater permit shall not be required.

III. ATTACHMENTS:

The following materials are provided as attachments to this staff memorandum:

1. Watershed Protection Permit Application
2. Proposed Site Plan
3. Recorded Plat
4. UDO Exhibit 3-14
5. 5/70 Tally Sheet Excerpt



Watershed Protection Permit Application

Date Received: _____

Case No.: WP-____-____

I, the undersigned, do hereby make application to the Town of Southern Pines Town Council for a Watershed Protection Permit for the property described below.

Project Information:

Project Name: Townhomes on Bennett Zoning District: CB Total Property Acreage: 1.22 ac
PIN: 858100075181 Parcel ID: 20210430
858100075283 Watershed: Little River
Type of Development: Townhomes Total Built-Up Area*: 0.86 ac
% of Total Property Acreage Proposed to be Built-Up Area*: 70%

Applicant:

Name(s): Bantembo, LLC Email: colin@ascotgrp.com
Mailing Address: PO Box 1872 Southern Pines, NC 28388 Phone: 910-639-1065

Authorized Agent, if different from Applicant:

Name(s): Kevin S. Lindsay, PE
Email: kevinlindsay@crawforddsn.com Phone: 910-920-7661
Mailing Address: 230 W. Pennsylvania Ave., Suite C, Southern Pines, NC 28387

Legal Property Owner(s), if different from Applicant:

Name(s): _____
Email: _____ Phone: _____
Mailing Address: _____

Signature of Applicant

*Definition of Built-Up Area May be Found in Chapter 9 of the Unified Development Ordinance.

Please review **UDO §3.6.8 Watershed Protection Overlay District** in its entirety.

APPOINTMENT OF AGENT

The undersigned owner(s), Bantembo, LLC, hereby appoint(s) Kevin Lindsay, PE as the exclusive agent for the purpose of making an application to the Town of Southern Pines for approval of the site plan described in the attached application. The owner(s) hereby agree(s) that this agent has the authority to act for and on behalf of the owner(s) as follows:

1. to submit an application and required supplemental materials;
2. to appear at public meetings and give representation and comments on behalf of the owner(s);
3. to accept conditions or recommendations made by the Town of Southern Pines Technical Review Committee for the proposed improvements on the subject property; and
4. to act on behalf of the owner(s) without limitations with regard to any and all things directly or indirectly connected with or arising out of any application for site plan approval under the Southern Pines Unified Development Ordinance.

This Appointment of Agent shall remain in effect until final resolution of the attached application.

Signed this 23 day of MAY, 2022.



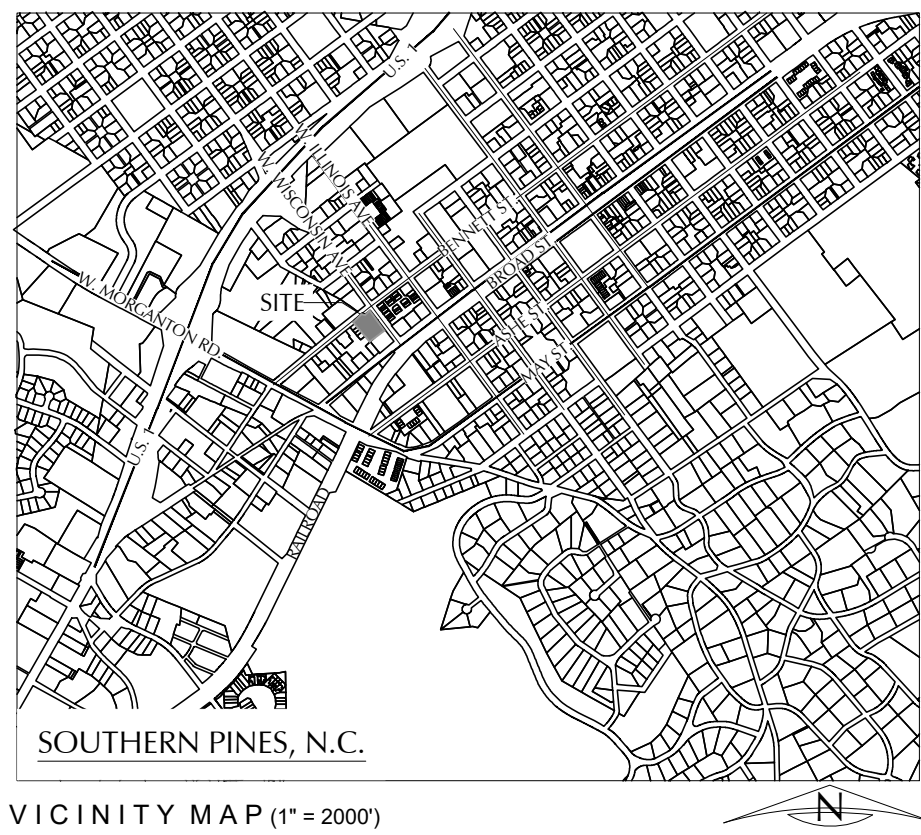
Property Owner

Property Owner

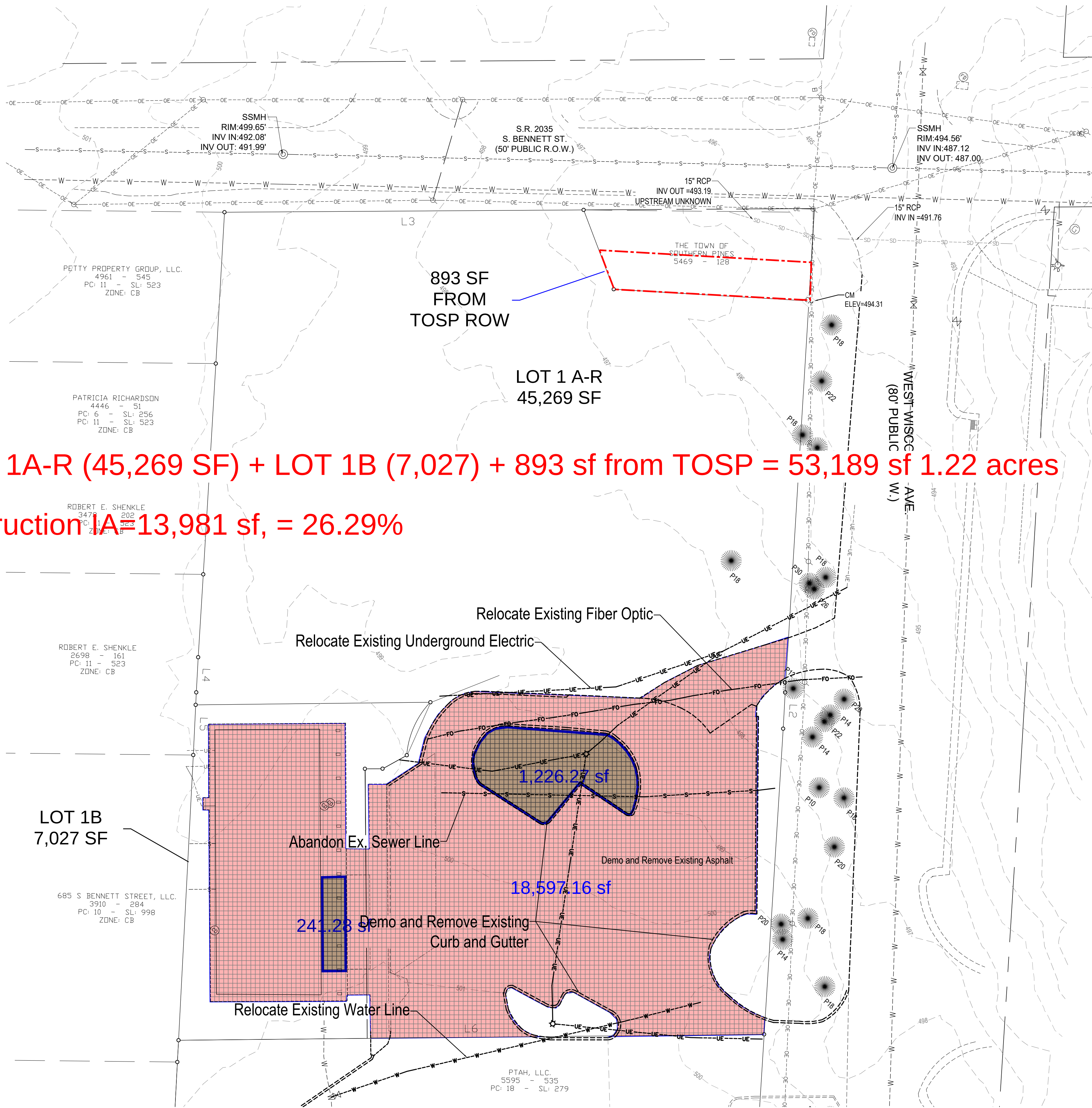
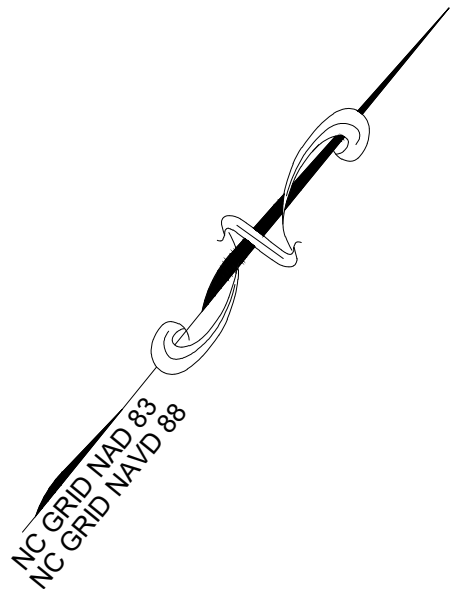


Agent

1/12/22



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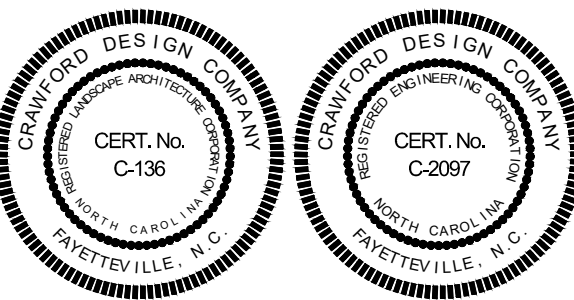


Site =Lots 1A-R (45,269 SF) + LOT 1B (7,027) + 893 sf from TOSP = 53,189 sf 1.22 acres

Pre Construction IA=13,981 sf, = 26.29%



Landscape Architecture ♦ Fayetteville, NC
Civil Engineering ♦ Southern Pines, Nc
116 N. Cool Spring Street ♦ Fayetteville, NC 28301
Voice: 910-221-0033 ♦ Fax: 910-221-0035
www.crawforddsn.com



SEALS

SURVEYING
JOHN G. MATTHEWS
Matthews Land Surveying & Mapping, PLLC
103 Monroe St Suite 104 Carthage, NC 28327
910-947-2871

REVISIONS	DATE	DESCRIPTION

BANTEMBO, LLC
TOWNHOMES ON BENNETT

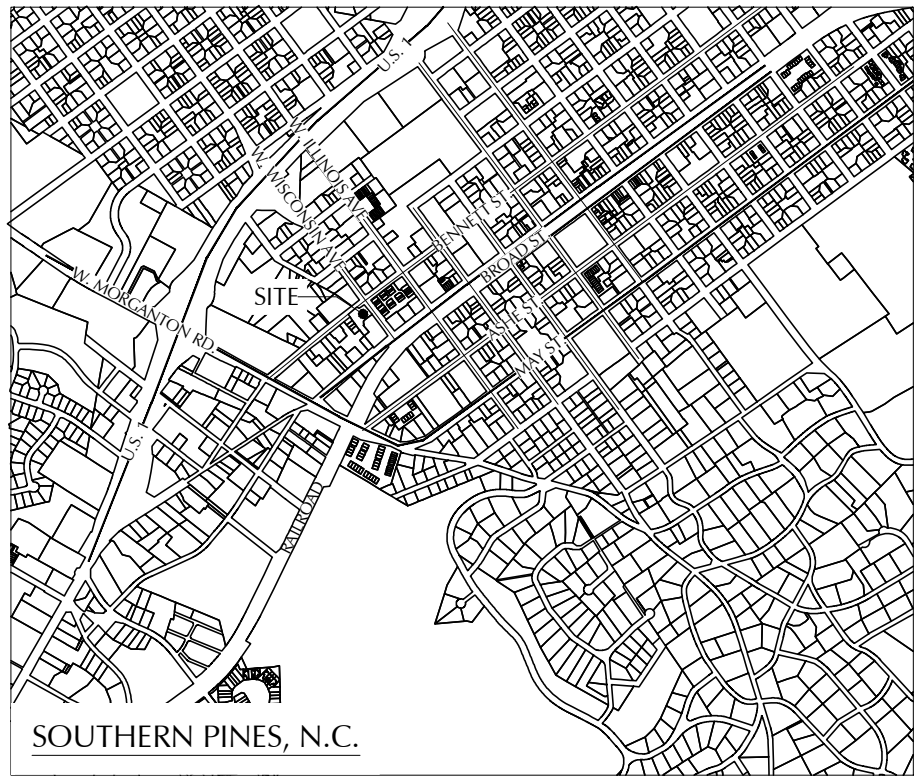
PROJECT DETAILS
Project Manager: KSL
CAD Technician: RFN/GER
Reviewed / Approved By:
Project Number: 21027

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Full Scale: Horiz.: 1" = 20'
Half Scale: Horiz.: 1" = 40'

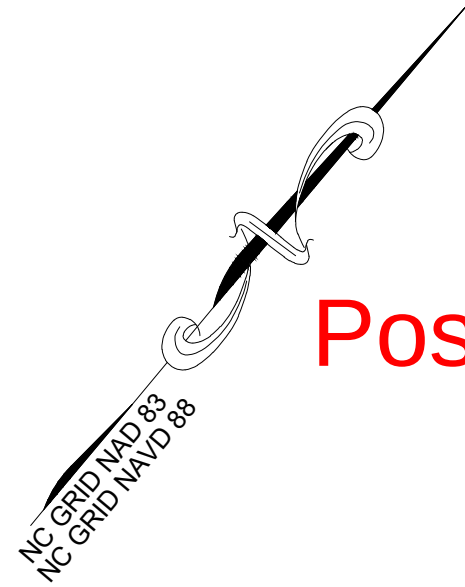
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11/15/2021

SHEET NUMBER

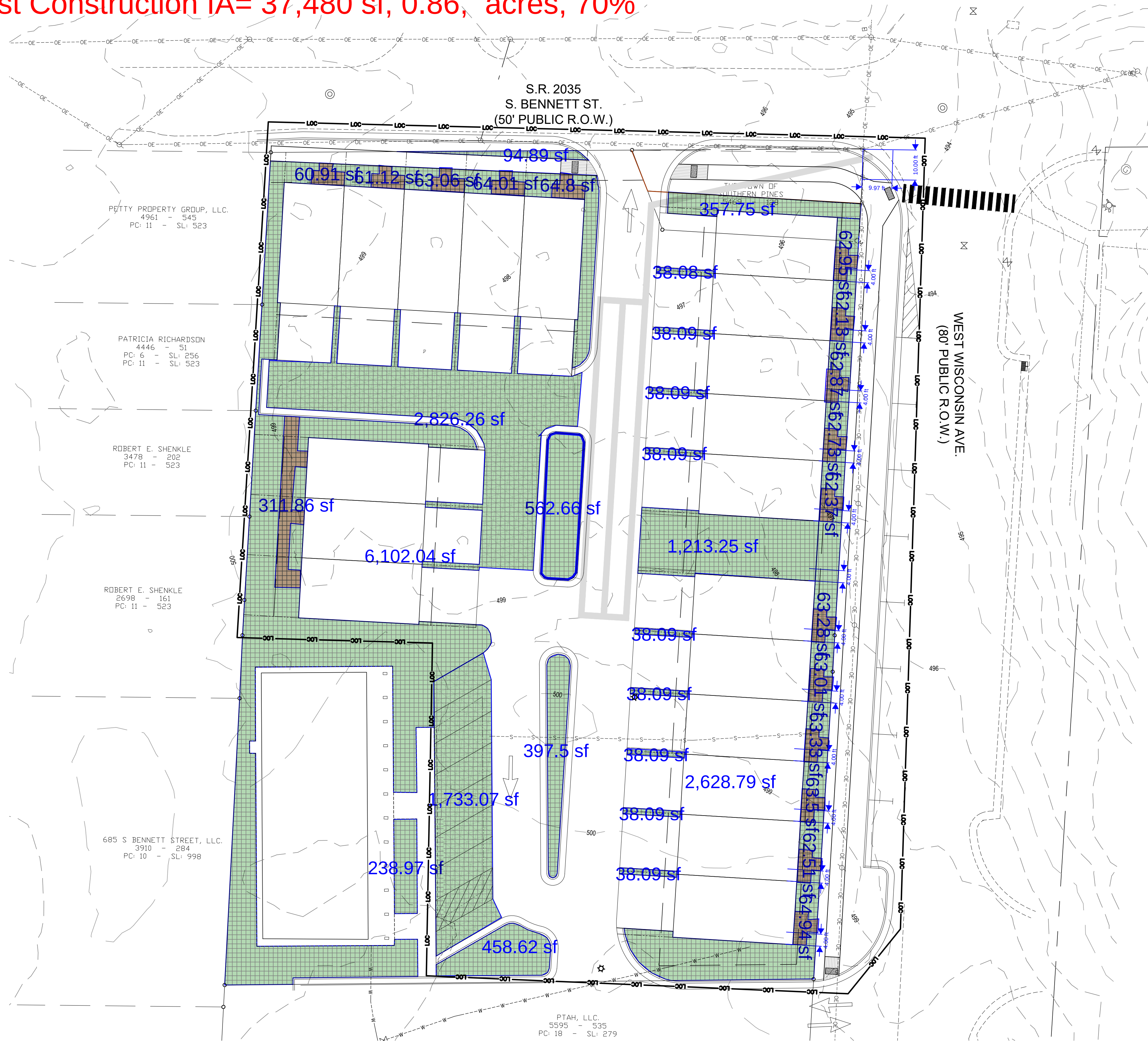
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VICINITY MAP (1" = 2000')



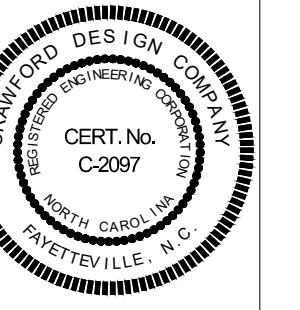
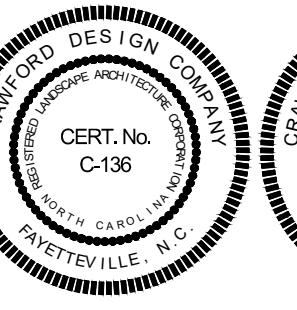
Post Construction IA= 37,480 sf, 0.86, acres, 70%



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Civil Engineering ♦ Southern Pines, NC
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SEALS

REVISIONS		
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BANTEMBO, LLC
TOWNHOMES ON BENNETT

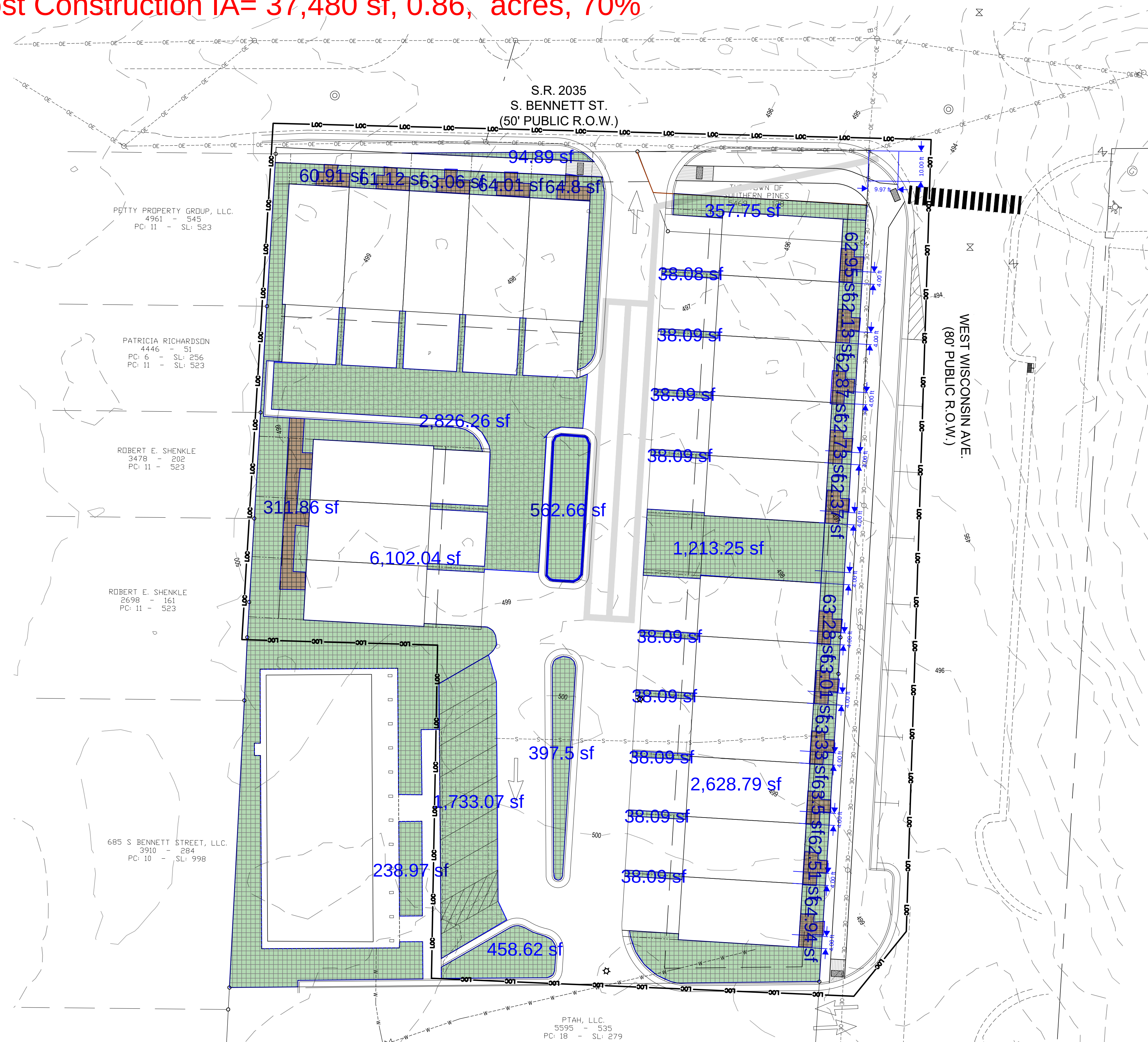
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Half Scale: Horiz.: 1" = 40'

ISSUE DATE: 11/15/2021

SHEET NUMBER

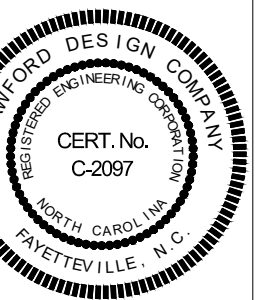
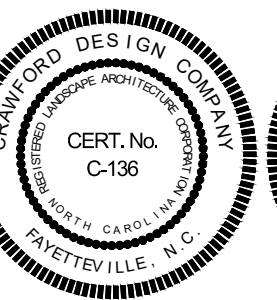
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REVISIONS		
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TOWNHOMES ON BENNETT

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SCALE 0 20 40
Full Scale: Horiz. 1" = 20'
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ISSUE DATE 11/15/2021

SHEET NUMBER _____

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SUBDIVISION ADMINISTRATOR 10/13/21
DATE

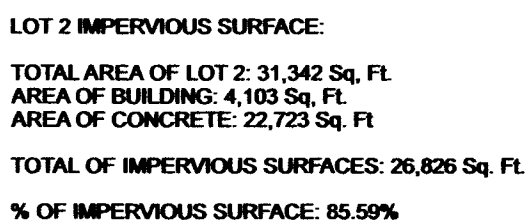
FOR REGISTRATION REGISTER OF DEEDS
Judy D. Martin
Moore County, NC
October 14, 2021 10:19:31 AM
Book 19 Page 127-127
FEE: \$21.00
INSTRUMENT # 2021022718



WM		WATER METER
SSMH		SANITARY SEWER MANHOLE
CP		COMPUTED POINT
ECM		EXISTING CONCRETE MONUMENT
EA		EXISTING AXLE
EIP		EXISTING IRON PIPE
EIR		EXISTING IRON ROD
NIS		NEW IRON STAKE
WV		WATER VALVE
FH		FIRE HYDRANT

 SURVEYED PROPERTY BOUNDARY
 OTHER SURVEYED LINE
 LINES NOT SURVEYED
 RIGHT-OF-WAY
 OVERHEAD ELECTRIC LINES
 FENCE
 SANITARY SEWER LINES
 TIE LINE

NORTH CAROLINA GRID NAD 83 (2011)



LINE	BEARING	DISTANCE
L1	N 49°26'48" E	194.12'
L2	N 36°50'16" W	12.12'
L3	S 49°38'38" W	120.03'
L4	S 36°52'31" E	11.75'
L5	S 37°18'29" E	4.17'
L6	S 37°18'29" E	16.79'
L7	N 49°31'27" E	5.88'
L8	N 21°01'06" E	9.27'
L9	S 37°10'53" E	8.71'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	29.14'	19.73'	19.36'	S 15°58'30" E	38°47'56"

I, JOHN G. MATTHEWS, CERTIFY THAT THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.

I, JOHN G. MATTHEWS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL GPS/GNSS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

- THE SURVEY:**
 (1) CLASS OF SURVEY: CLASS A
 (2) POSITIONAL ACCURACY: <0.10'
 (3) TYPE OF GPS FIELD PROCEDURE: RTK NETWORKS
 (4) DATES OF SURVEY: SEPTEMBER 13, 2021
 (5) DATUM/EPOCH: NAD83(2011)
 (6) PUBLISHED/FIXED-CONTROL USE: NC CORS
 (7) GEOID MODEL: ContinentalUS_NGSD2012B
 (8) COMBINED GRID FACTOR(S): 0.99985932
 (9) UNITS: U.S. SURVEY FEET

GRID TO GROUND SCALE POINT:
N(y): 517068.88142152 US SURVEY FEET
E(x): 1880855.96762054 US SURVEY FEET

I, JOHN G. MATTHEWS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN (SEE REFERENCE TABLE); THAT THE BOUNDARIES THEREIN SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN (SEE REFERENCE TABLE); THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:10000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 13TH DAY OF

PROFESSIONAL LAND SURVEYOR, L-5020

NOTES:

1. ACREAGE DETERMINED BY COORDINATE METHOD
2. TAX PARCEL ID: 20190227 & 00041456
3. ZONING: CB
4. PUBLIC WATER SUPPLY WATERSHED: WS-IIP
5. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH AND IS SUBJECT TO ANY EASEMENTS OR CONVEYANCES OF RECORD.
6. NO ATTEMPTS MADE TO LOCATE UNDERGROUND UTILITIES

RECOMBINATION SURVEY FOR:

BANTEMBO, LLC.

OCTOBER 13, 2021

TOWN OF SOUTHERN PINES

MOORE COUNTY, NORTH CAROLINA

30 60 90

SCALE 1"=30'

REFERENCE TABLE:		OWNERS
DEED BOOK 5694, PAGE 587	LOT 1A ID: 20190227:	BANTEMBO, LLC
PLAT CABINET 18, SLIDE 216	LOT 1B, ID: NONE:	BANTEMBO, LLC
PLAT CABINET 18, SLIDE 279		ID: 00041456: PTAH, INC
MOORE COUNTY REGISTRY		

PROPERTY ADDRESS:	OWNER'S ADDRESS:
600 SW BROAD ST.	BANTEMBO, LLC
SOUTHERN PINES, NC 28387	PO. BOX 187
	SOUTHERN PINES, NC 28387

MATTHEWS
LAND SURVEYING & MAPPING
FIRM LICENSE: P-1343 P.L.L.C.

10 COURTHOUSE SQUARE
CARTHAGE, NC 28327
910-847-2671

JOB# 10762

Exhibit 3-14: WPO District Development Density and Intensity Requirements

Location	Maximum Density or Intensity
Critical Area	New Development shall be limited to either one (1) Dwelling Unit per acre or twelve (12) percent built upon land area.
High Quality Water (HQW) / Protected Area	New Development shall be limited to one (1) Dwelling Unit per acre or twelve (12) percent built upon land area unless (a) the Development disturbance area is less than one (1) acre or (b) BMPs or another approved stormwater management based practices are used. New Development with a Development disturbance area less than one (1) acre shall be limited to two (2) Dwelling Units per acre or twenty-four (24) percent built upon land area. New Development utilizing BMPs or another approved stormwater management based practices shall be limited to two (2) Dwelling Units per acre or twenty-four (24) percent built-upon land area in the Watershed outside of the Critical Area. - For Commercial Projects: New Development requires a state Stormwater Permit if the Development disturbance area exceeds one (1) acre. If the new Development exceeds the twenty-four (24) percent built upon area the project may apply for the 5/70 exemption*. - For Residential Projects: New Development requires a state Stormwater Permit if the Development disturbance area exceeds one (1) acre. If the new Development exceeds the twenty-four (24) percent built upon area the project may apply for the 5/70 exemption*.
Rest of Watershed (WS-III)	New Development shall be limited to two (2) Dwelling Units per acre or twenty-four (24) percent built-upon area. If the new Development exceeds either of these thresholds the project may apply for the 5/70 exemption*.

Table Notes:

*** 5/70 Exemption Allocation for Non-Residential and High- Density Attached Residential Development:** New Development may be developed at up to seventy (70) percent built-upon land area as follows:

- The total area subject to this provision shall not to exceed five (5) percent of Southern Pines' jurisdiction as of July 1, 1993 within the Watershed and outside of the Critical Area.
- Development in the **CB** district shall qualify for this allocation on a first come, first serve basis until the five (5) percent is exhausted.
- Development outside of the **CB** district requiring an allocation of Built-Upon Area shall require approval from the Town Council in conjunction with any Development Approval prior to Building Permit Approval. The allocation may be granted concurrently with Architectural Compliance Permit or Final Development Plan approval and shall be subject to the following criteria:
 - The use and location of the use are consistent with the Comprehensive Plan;
 - The design of the project is appropriate for the location and is consistent with the purposes of the WPO district;
 - The allocation is minimum necessary to establish the use at a size, scale and design that serves the interests of the neighborhood and the Town as a whole; and
 - The allocation will not detract from the viability of similar uses in the area or other parts of the Town.
- All allocations shall be deducted from the five (5) percent total area allocation and shall be monitored by the Planning Director.
- If this exemption is granted, a State stormwater permit shall not be required.

Exemptions: Those areas bounded by a pre- existing natural or permanent obstruction which prevents surface storm water runoff from reaching any designated water supply as determined in writing by the North Carolina Division of Water Quality, and the exception would have only an insignificant impact on the available allocation as determined by the Town Council.

Current 5/70 Watershed Tally Sheet:				
Watershed	Gross Acreage (2012)	5% of Watershed	Total Existing Project Acreage Deductions with Post-1993 Built-Up Area Exceeding 24%	Acreage Left Available since 1993 Allotment of 5%
Little River Intake #2	22,470.88	1123.54	672.50	451.04
Proposed Project: WP-02-22 1.22 Acres - Corner of S. Bennett St & W. Wisconsin Ave.				
Total Project Acreage	Total Permitted Amount of Built-Up Area for Project in Acres (70%)	Total Amount of Built-Up Area with Proposed Project	Total Acreage to be Deducted from 5/70 Tally	Acreage Left Available if Request is Approved
1.22	0.86	70%	1.22	449.82

Agenda Item

To: Reagan Parsons, Town Manager

From: James Michel, PE, Town Engineer

Subject: Relief from §50.035 of the Town Code of Ordinances

Date: September 28, 2022

I. SUMMARY:

Sean Butler of Butler Constructs Design and Build has proposed a subdivision dividing property located at 557 McNeill Road (PARID 00056379) into five separate single-family lots. Mr. Butler is requesting relief from §50.035 of the Town Code of Ordinances requiring any new house, lot, or subdivision to connect to the Town's water system if it is within 300 feet (plus 100 feet multiplied by the number of additional dwellings) of an existing [water] distribution pipe. Pursuant to the same section "Only the Town Council may waive this requirement." Therefore, the applicant must request of Town Council a waiver from §50.035 of the Town Code of Ordinances. The proposed subdivision is within approximately 350 feet of an existing water main and without receiving relief from this provision of the Code of Ordinances, would be required to connect to the Town's water system (see attached Map). The requirement to connect to the Town's water system would convert the classification and procedural requirements of an otherwise minor subdivision into a major subdivision.

After reviewing the proposed lot arrangement, it was determined that an extension of the water main for the purpose of provided drinking water to the proposed homes would be an inefficient extension of utilities due to the number of customers utilizing the line and the resulting dead end. It should be noted that there are water system management practices to address potential water quality concerns in this extension though this could result regular flushing of the lines.

The Town Fire Marshall was consulted to ensure that adequate measures were in place to provide fire protection for the five proposed lots and the Fire Marshall felt that the building spacing would be adequate and that the additional protection provided by the extension of the water system would not be warranted. It should be noted that the Fire Marshall does feel that no additional subdivisions should be allowed in this area without the extension of the water system.

The requirement to extend the waterline could lead to higher density development due to the cost of the installation. Some consideration should be given to how the area may develop in the future. There is a large tract of land north of the proposed subdivision that if it were to be developed would require the extension of the Town's water system. There are a number of existing homes along McNeil Road that are currently served by on-site wells and who may benefit in the future from access to the Town's water system.

II. ATTACHMENTS:

1. Letter submitted by applicant requesting relief from §50.035 of the Town Code of Ordinances.
2. Map of the area and surrounding waterlines.

III. TOWN COUNCIL ACTION:

Town Council is being asked to grant a waiver from §50.035 of the Town Code of Ordinances for the proposed subdivision.

Council finds that that the requirement to extend the Town's water system to serve the proposed minor subdivision would result and an inefficient extension of utilities due to the potential operation challenges and does hereby waive the requirements from §50.035 of the Town Code of Ordinances.

Council finds the that requirement to extend the Town's water system to serve the proposed minor subdivision would result in an efficient extension of utilities due to expected growth and development in the area and that the requirements from §50.035 of the Town Code of Ordinances shall be followed.



P.O Box 1201 • Southern Pines, NC 28387

September 12, 2022

Southern Pines Town Council,

Abidin Investments LLC is the owner of a 3.4 ac tract of land(00056379) located on McNeill Rd in the ETJ of Southern Pines. Butler Constructs Design and Builds is applying for a Minor Subdivision and requests not to connect to Town water and sewer.

This request is similar to the previously approved project located approximately 200 yards East on McNeil Rd. We would like to utilize well and septic due to the far proximity of current watermain and the sites relationship away from the downtown infrastructure. The cost of tying into town services would be exceedingly high for 5 lots on a dead end street. Also there are no more vacant parcels suitable for development along this corridor and the property backs up to Fort Bragg. Abidin Investments has no other contracts for purchase or interest in properties along this corridor for future development.

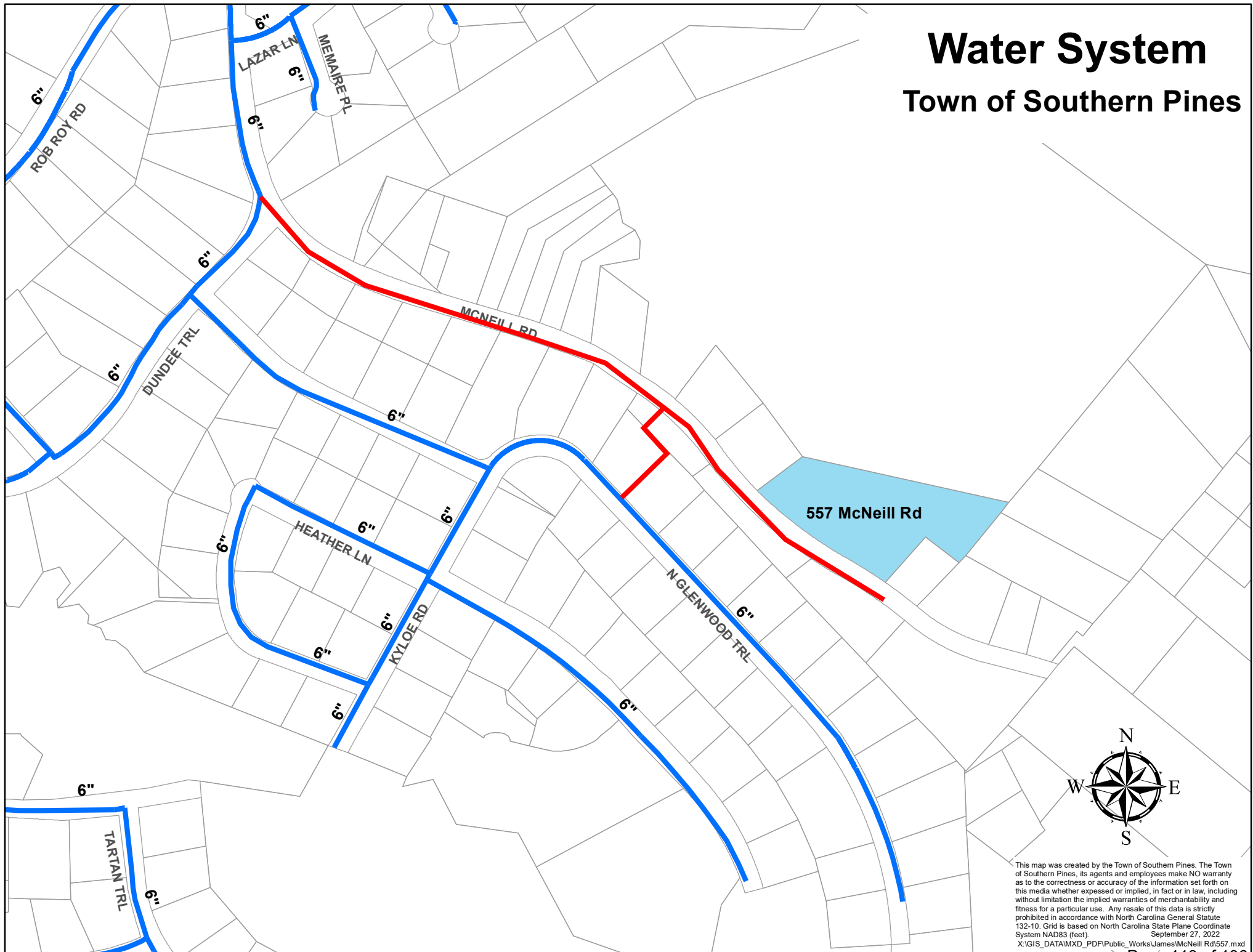
As per Code of Ordinances 50.035 "no official of the town may waive any of the requirements" of the Water System Use ordinance without Town Council approval. Without access to the Town water supply Abidin Investments is seeking private water and sewer connections. Applications for septic and wells are currently in process at Moore County Environmental Health. Based on county soil surveys the preliminary information is favorable for drainage but percolation tests are pending.

Thank you for your consideration of this matter.

Sean Butler

Water System

Town of Southern Pines



This map was created by the Town of Southern Pines. The Town of Southern Pines, its agents and employees make NO warranty as to the correctness or accuracy of the information set forth on this media whether expressed or implied, in fact or in law, including without limitation the implied warranties of merchantability and fitness for a particular use. Any resale of this data is strictly prohibited in accordance with North Carolina General Statute 132-10. Grid is based on North Carolina State Plane Coordinate System NAD83 (feet).
September 27, 2022
X:\GIS_DATA\MXD_PDF\Public_Works\James\McNeill Rd\557.mxd

Agenda Item

To: Reagan Parsons, Town Manager
From: BJ Grieve, Planning Director
Subject: Historic District Commission Appointment – Michelle Peele
Date: October 11, 2022

I. RECOMMENDATION:

The Planning Director recommends that Ms. Michelle Peele be considered for appointment to serve on the Historic District Commission at the Regular Business Meeting of the Town Council on October 11, 2022, for a first term to expire on October 10, 2026.

II. BACKGROUND:

Ms. Peele has expressed an interest in serving and has applied for appointment to the Historic District Commission and the Planning Director has recommended her for appointment.

III. LEGAL REVIEW:

In accordance with UDO §8.16.1(B), the Historic District Commission shall consist of seven (7) members, all of which shall be resident citizens.

- *The Commission currently consists of five (5) active members who reside in Town.*
- *Ms. Peele currently resides in Town and is thereby eligible for appointment as a member of the Commission.*

In accordance with N.C.G.S. §160D-303, as well as UDO §8.16.1, a majority of the members of the commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology or related fields.

- *Ms. Peele has several years of experience as a licensed general contractor, which included construction and renovations that were subject to historic preservation guidelines.*

In accordance with UDO §8.16.1(C), HDC members shall be appointed for four-year staggered terms. Members may be appointed to not more than two (2) successive complete terms but may be eligible for reappointment after one year has elapsed from the date of termination of the second term.

- *Upon appointment, Ms. Peele will serve her first term to expire on October 10, 2026.*

Additionally, as a Certified Local Government, which makes the Town eligible for historic preservation-related grants and other benefits, the HDC is required to meet specific training requirements. At least two members, as well as designated staff, must attend at least one informational or educational meeting per year pertaining to their work on the HDC.

Agenda Item

To: Reagan Parsons, Town Manager
From: BJ Grieve, Planning Director
Subject: Historic District Commission Appointment – Sandra Carroll
Date: October 11, 2022

I. RECOMMENDATION:

The Planning Director recommends that Ms. Sandra Carroll be considered for appointment to serve on the Historic District Commission at the Regular Business Meeting of the Town Council on October 11, 2022, for a first term to expire on October 10, 2026.

II. BACKGROUND:

Ms. Carroll has expressed an interest in serving and has applied for appointment to the Historic District Commission and the Planning Director has recommended her for appointment.

III. LEGAL REVIEW:

In accordance with UDO §8.16.1(B), the Historic District Commission shall consist of seven (7) members, all of which shall be resident citizens.

- *The Commission currently consists of five (5) active members who reside in Town.*
- *Ms. Carroll currently resides in Town and is thereby eligible for appointment as a member of the Commission.*

In accordance with N.C.G.S. §160D-303, as well as UDO §8.16.1, a majority of the members of the commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology or related fields.

- *As the Regional Director of Operations, Ms. Carroll was involved in the construction of new facilities at the University of Pittsburgh Medical Center.*

In accordance with UDO §8.16.1(C), HDC members shall be appointed for four-year staggered terms. Members may be appointed to not more than two (2) successive complete terms but may be eligible for reappointment after one year has elapsed from the date of termination of the second term.

- *Upon appointment, Ms. Carroll will serve her first term to expire on October 10, 2026.*

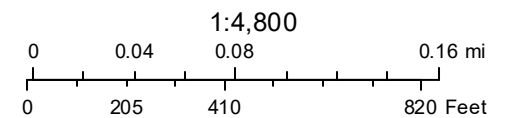
Additionally, as a Certified Local Government, which makes the Town eligible for historic preservation-related grants and other benefits, the HDC is required to meet specific training requirements. At least two members, as well as designated staff, must attend at least one informational or educational meeting per year pertaining to their work on the HDC.

Moore County



October 2, 2022

- Parcels
- Moore County
- Streets
- Highways



MEMO

TO: Town Council
FROM: Reagan
Date: 10-04-22

RE: Budget Amendments item 10-05 Agenda

Per our discussion at Work Session I would like to include for adoption on the 10-11-22 Business Meeting Agenda budget amendments regarding the following:

1. The Appearance Commission project along New Hampshire and within the Town Parking lots along with the brick work discussed where we have been unable to establish grass following a Town project a number of years ago. The amendment of **\$77,713** would be “charged against” the revenue recently replaced as part of our ARPA accounting.
2. A transfer to the Parks CPF to cover the costs associated with the roof replacement at Pool Park (\$10,000), Memorial B LED Field Lights and controls (\$160,00), and Campbell House Park Improvements to include the fencing and Basketball Court (\$85,145). This **\$255,145** transfer would also be derived from replaced revenues.
3. The funding of upgrades to the E.S. Douglass Center restrooms (\$53,500), an ADA ramp project at the Administration Building (\$66,500), and refurbishment of the Library restrooms (\$100,000.) It is recognized that initial estimates for the Library ran up to \$130,000, but with an actual allocation and potentially including the DCC and Library as one contract we will have greater ability to refine numbers with a contractor and at the least ensure accessibility concerns and replacement of fixtures can be addressed. This **\$220,000** transfer is proposed to come from revenue replacement funds.
4. Sidewalks: Per conversation at the Work Session, I have placed in the packet a map showing Bennett Street block by block pricing. The three red numbers represent the bids we just opened, while the green are simply estimates based on those fresh bids. In order to construct the sidewalks in red, in addition to the small sidewalk required at the corner of W. Morganton and Broad to obtain NCDOT permission to paint a crosswalk, a transfer to the sidewalk CPF of

\$110,00 is requested. It is suggested that this transfer occur from *existing fund balance* given that this represents the planned project for the 22-23 Budget.

If Council is interested in completing the west side of Bennett, ultimately tying into existing sidewalk next to the ballfields and leading to W. Morganton, an amendment of \$558,683 would be necessary. Already in excess of \$500k, this would require a formal bid procedure and it would be worth considering adding one or more blocks of sidewalk along W. Wisconsin (or another route). If this is a direction Council would like to take, provided a ballpark figure I would like to work with the Connectors to prioritize specific blocks or routes that could be included in a later transfer from replaced revenues to the Sidewalk CPF for purposes of a larger bid project.

Again, these requested actions far from conclude conversations around the replaced revenues, simply representing immediate projects that are either time sensitive due to planting requirements or otherwise received some previous consideration at the time of budget deliberations. Staff will simply be seeking direction Wednesday evening and can then draw up the amendments for the packet that goes with next week's agenda. Please note that when you receive those amendments, *all transfers* will be coming from Fund Balance since that is technically where the replaced revenues now reside. When I reference revenue replacement it is with an eye toward creating a separate internal tracking mechanism (likely spreadsheet) for the sole purpose of transparency. If there are other items from the Work Session discussion that you would like to immediately move forward (Broad Street parking, pool deck tile, etc.) just let us know and we can include them in the initial round of amendments.

.

Prepared by:
John M. May, Esq.
Robbins May & Rich LLP
120 Applecross Road, Pinehurst, NC 28374
No Title Exam By Drafting Attorney

STATE OF NORTH CAROLINA

COUNTY OF MOORE

**EASEMENT DEED
AND AGREEMENT**

KNOW BY ALL MEN THESE PRESENTS, that **the County of Moore, NC a body politic and corporate of the state of North Carolina** hereinafter called “Grantor”, on this the ____ day of _____, 202_, for good and valuable consideration, does hereby grant unto the **Town of Southern Pines, a NC municipal corporation**, its successors and assigns (hereinafter, called “Grantee”), a water pipeline utility easement (hereinafter sometimes referred to as “easement”) which is more specifically described hereinbelow, and which easement traverses and burdens certain portions of that land of Grantor (hereinafter “Premises”) which land is more fully described in Book 397, Page 482 and Book 4047, Page 117 both of the Moore County Public Registry, and which description is specifically incorporated by reference as if fully set forth herein, and which land(s) have the following Moore County Tax Department Parcel Identification Number as of 2022 and Moore County LRK Number, respectively, as follows: 0032538. The location of the Easement is generally shown on Exhibit A attached hereto and herein incorporated by reference. Once the new waterline is installed, the contractor for that work will provide the Moore County Airport Authority an as built survey of the location of the waterline. The parties hereto agree to amend this Easement Deed and Agreement to include the description of the easement area based on that as built survey.

The Moore County Airport Authority is duly empowered to operate, manage, and control the Moore County Airport under the authority of the General Assembly of North Carolina, 1993 session, ratified bill, Chapter 414, Senate Bill 942, and the aforesaid Grantor’s Premises is used for Moore County Airport purposes. The Moore County Airport Authority plans to construct a water pipeline and related apparati (as discussed herein) along and within the easement. Upon completion of construction, the Grantee herein shall operate, maintain, and repair the constructed water pipeline and related apparati. It is acknowledged the Moore County Airport is a public use

airport and based on certain covenants the Airport is required to be operated in accordance with FAA and TSA guidelines. The water line is located within a secured air operations area subject to the FAA and TSA rules and regulations. Except in emergency situations, the Grantee will coordinate with the Moore County Airport Manager before undertaking any activities related to operating, maintaining, repairing, and inspecting the water pipeline system.

Now Therefore, at the Grantee's request and for the purposes herein expressed, the Grantor has agreed to grant and convey to Grantee an easement over, upon, across, under and through a portion of Grantor's property as herein described for the purpose of operating, maintaining, repairing, and inspecting a water pipeline system, and Grantor has agreed to do so under the terms and conditions stated herein with the consent of the MCAA.

The easement herein conveyed is **twenty feet** in width and is more particularly described as follows: *see Exhibit A attached hereto and incorporated by reference as if fully set forth herein (the "Easement Area")*.

and is for the following purposes: to repair, operate, and maintain on the Easement Area an underground water pipeline as well as hydrants, meters, and related appurtenances. The aforesaid pipeline and appurtenances are to be installed by the Moore County Airport Authority and thereafter maintained, operated, and repaired by the Grantee herein, in order to provide water service to the Premises. Further rights conveyed include, but are not limited to, the right to go upon the Premises whenever necessary in accordance with the terms hereof with motor vehicles, and other repair and maintenance equipment for the purpose of inspecting, maintaining, and repairing the water line service (provided that in constructing and repairing the water line service the Grantee shall remove all surplus earth; make level the surface of the ground above the water line. In doing the aforementioned work, the Grantee agrees to coordinate entry and work with the Moore County Airport Manager so as to minimize disruption and hazard to all parties involved thereby enabling the Moore County Airport Authority to continue to be in compliance with FAA and TSA requirements.

TO HAVE AND TO HOLD said right and easement to the Grantee and its successors in title and assigns forever; it being agreed that the right and easement hereby granted is appurtenant to and runs with the Premises now owned by Grantor.

If due to significant changes in Airport, TSA, or FAA requirements or other safety requirements, it becomes impractical for the Grantor to maintain this utility easement, the Grantor reserves the right to terminate the agreement and assume ownership of the water line on airport property and negotiate a new agreement to purchase water from the Town of Southern Pines.

IN TESTIMONY WHEREOF, said Grantor and Grantee has hereunto caused this document to be signed in their individual and corporate names by their duly authorized officers and their seals to be hereunto affixed by authority of their Board of Directors or Town Council or County Commissioners, as the case may be, the day and year first above written.

End of Document – Signatures Begin on Following Pages –

Grantor:

County of Moore, North Carolina

By: _____(SEAL)

_____, Chairman, Moore County Board of Commissioners

Attested by:

_____, Clerk to the Board

State of North Carolina

County of Moore

I, _____, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that she is the Clerk to the Board of County Commissioners of the county of Moore, North Carolina, and that by authority duly given, and as the act of the Board, the foregoing instrument was signed in its name by its Chairman of the Board of County Commissioners, sealed with its seal and attested by her as the Clerk to the Board of County Commissioners.

Witness my hand and official stamp or seal, this ____ day of _____, 202_.

My commission expires: _____

Notary Public

Grantee:

The Town of Southern Pines, NC

By: _____(SEAL)

_____, Mayor, Council of the Town of Southern Pines, NC

Attested by:

_____, Clerk to the Town of Southern Pines Council

State of North Carolina
County of Moore

I, _____, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that she is the Clerk to the Town of Southern Pines Council, and that by authority duly given, and as the act of the Council, the foregoing instrument was signed in its name by its Mayor of the Town of Southern Pines Council, sealed with its seal and attested by her as the Clerk to the Town of Southern Pines Council.

Witness my hand and official stamp or seal, this ____ day of _____, 202__.

My commission expires: _____

Notary Public

To indicate Consent:
MOORE COUNTY AIRPORT AUTHORITY

By: _____
Print Name: _____
Print Title: Chairman

Attested by:

_____, Secretary to the Moore County Airport Authority Board

State of North Carolina
County of Moore

I, _____, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that she is the Secretary to the Moore County Airport Authority Board and that by authority duly given, and as the act of the Board, the foregoing instrument was signed in its name by its Chairman, sealed with its seal and attested by her as the Secretary to the Board of the Moore County Airport Authority.

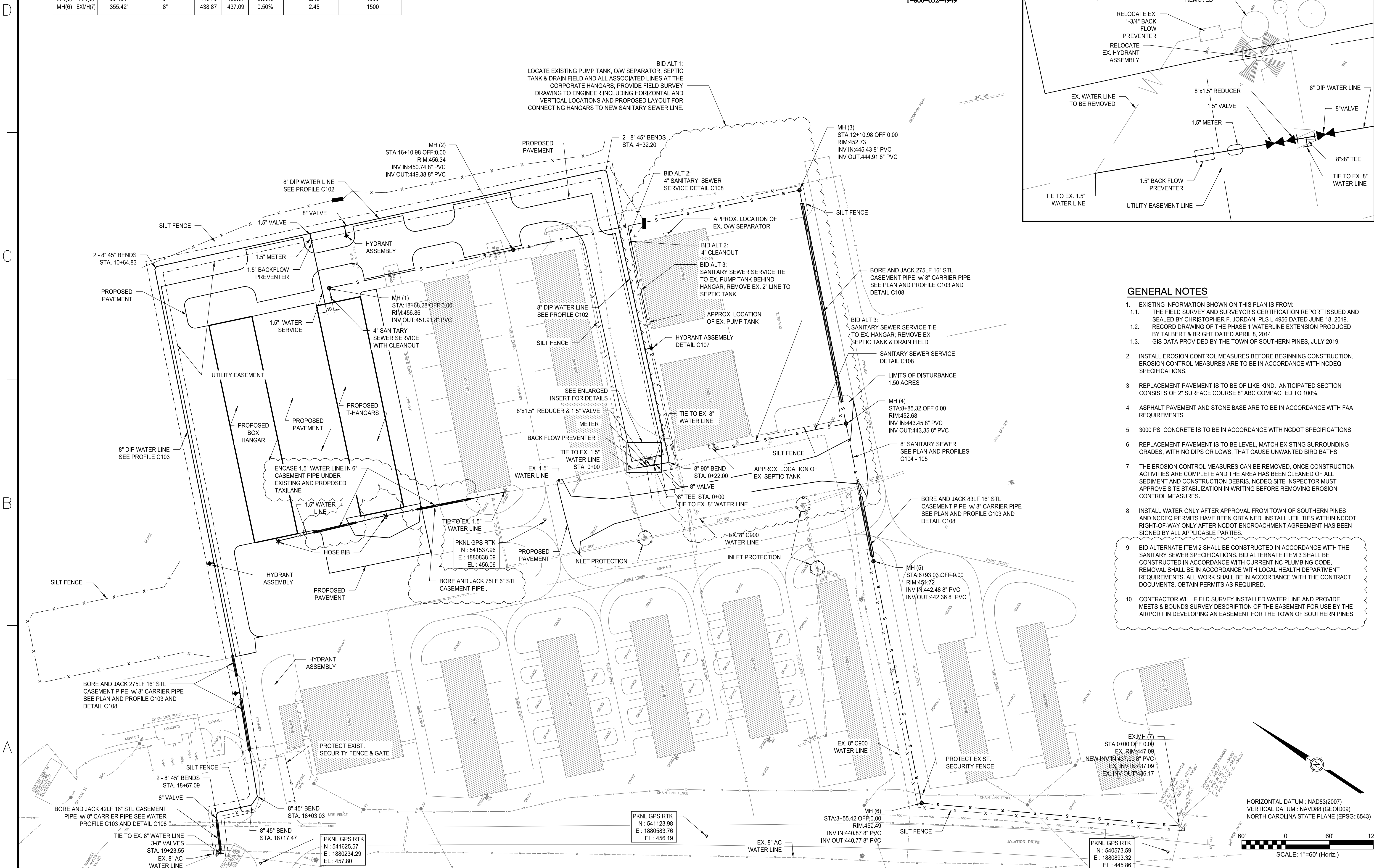
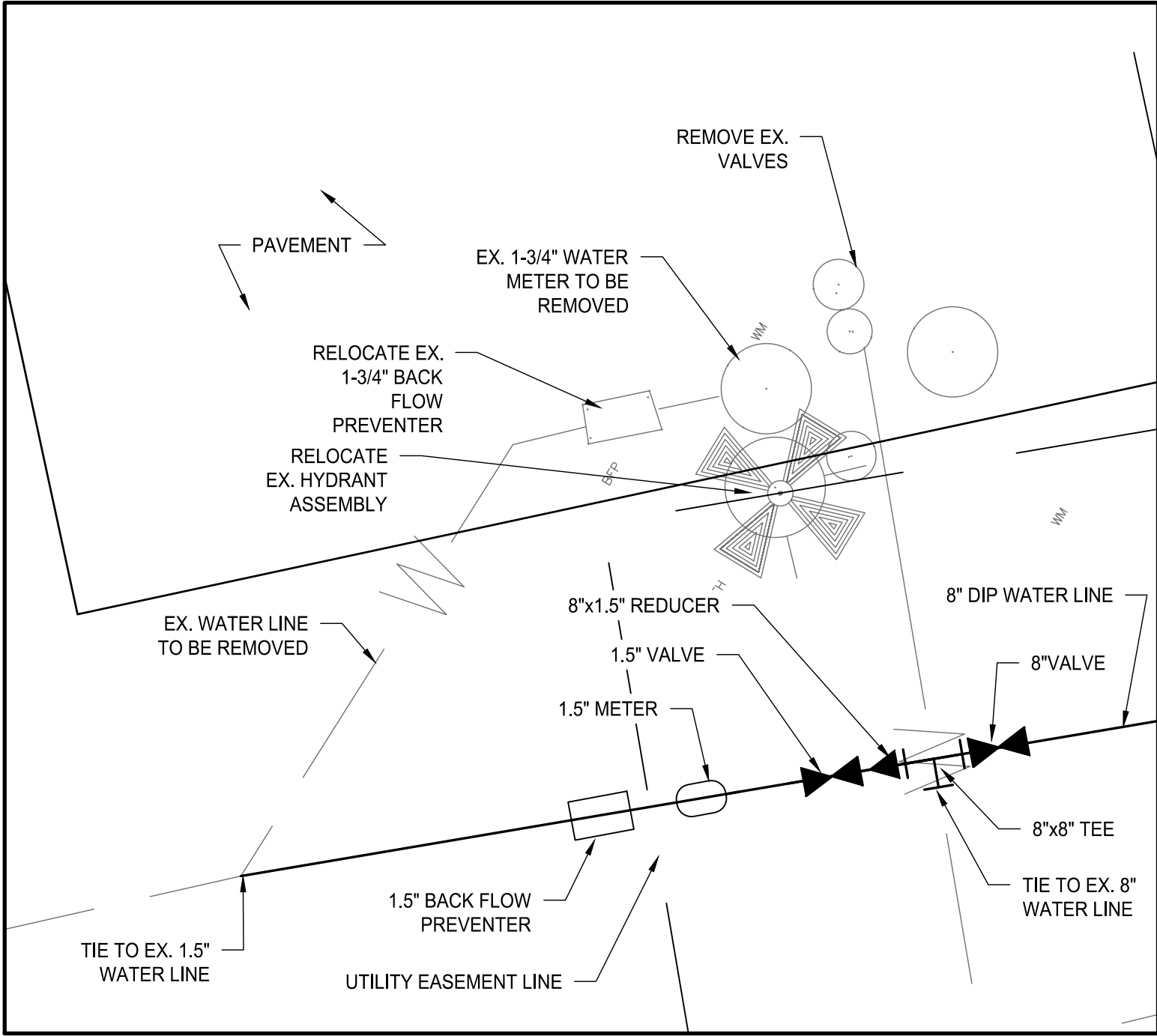
Witness my hand and official stamp or seal, this ____ day of _____, 202_.

My commission expires: _____

Notary Public

SS MH CHART

MANHOLE	FROM	TO	LENGTH	PIPE SIZE (in)	INVERT		SLOPE(%)	VELOCITY(fps)	DESIGN FLOW(gpd)
					UPPER	LOWER			
MH(1)	MH(2)		257.30'	8"	451.91	449.58	0.91%	3.28	1500
MH(2)	MH(3)		400.00'	8"	449.38	443.95	1.36%	4.03	1500
MH(3)	MH(4)		325.68'	8"	443.75	442.12	0.50%	2.45	1500
MH(4)	MH(5)		192.29'	8"	441.92	440.96	0.50%	2.44	1500
MH(5)	MH(6)		337.61'	8"	440.76	439.07	0.50%	2.45	1500
MH(6)	EXMH(7)		355.42'	8"	438.87	437.09	0.50%	2.45	1500



- GENERAL NOTES**
- EXISTING INFORMATION SHOWN ON THIS PLAN IS FROM:
 - THE FIELD SURVEY AND SURVEYOR'S CERTIFICATION REPORT ISSUED AND SEALED BY CHRISTOPHER F. JORDAN, PLS L-4956 DATED JUNE 18, 2019.
 - RECORD DRAWING OF THE PHASE 1 WATERLINE EXTENSION PRODUCED BY TALBERT & BRIGHT DATED APRIL 8, 2014.
 - GIS DATA PROVIDED BY THE TOWN OF SOUTHERN PINES, JULY 2019.
 - INSTALL EROSION CONTROL MEASURES BEFORE BEGINNING CONSTRUCTION. EROSION CONTROL MEASURES ARE TO BE IN ACCORDANCE WITH NCDEQ SPECIFICATIONS.
 - REPLACEMENT PAVEMENT IS TO BE OF LIKE KIND. ANTICIPATED SECTION CONSISTS OF 2" SURFACE COURSE 8" ABC COMPACTED TO 100%.
 - ASPHALT PAVEMENT AND STONE BASE ARE TO BE IN ACCORDANCE WITH FAA REQUIREMENTS.
 - 3000 PSI CONCRETE IS TO BE IN ACCORDANCE WITH NCDOT SPECIFICATIONS.
 - REPLACEMENT PAVEMENT IS TO BE LEVEL, MATCH EXISTING SURROUNDING GRADES, WITH NO DIPS OR LOWS, THAT CAUSE UNWANTED BIRD BATHS.
 - THE EROSION CONTROL MEASURES CAN BE REMOVED, ONCE CONSTRUCTION ACTIVITIES ARE COMPLETE AND THE AREA HAS BEEN CLEANED OF ALL SEDIMENT AND CONSTRUCTION DEBRIS. NCDEQ SITE INSPECTOR MUST APPROVE SITE STABILIZATION IN WRITING BEFORE REMOVING EROSION CONTROL MEASURES.
 - INSTALL WATER ONLY AFTER APPROVAL FROM TOWN OF SOUTHERN PINES AND NCDEQ PERMITS HAVE BEEN OBTAINED. INSTALL UTILITIES WITHIN NCDOT RIGHT-OF-WAY ONLY AFTER NCDOT ENCROACHMENT AGREEMENT HAS BEEN SIGNED BY ALL APPLICABLE PARTIES.
 - BID ALTERNATE ITEM 2 SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE SANITARY SEWER SPECIFICATIONS. BID ALTERNATE ITEM 3 SHALL BE CONSTRUCTED IN ACCORDANCE WITH CURRENT NC PLUMBING CODE. REMOVAL SHALL BE IN ACCORDANCE WITH LOCAL HEALTH DEPARTMENT REQUIREMENTS. ALL WORK SHALL BE IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. OBTAIN PERMITS AS REQUIRED.
 - CONTRACTOR WILL FIELD SURVEY INSTALLED WATER LINE AND PROVIDE MEETS & BOUNDS SURVEY DESCRIPTION OF THE EASEMENT FOR USE BY THE AIRPORT IN DEVELOPING AN EASEMENT FOR THE TOWN OF SOUTHERN PINES.

CATLIN
Engineers and Scientists
220 Old Dairy Road
Wilmington, NC 28405
Corporate License No. for
Engineering Services C-0585

MOORE COUNTY AIRPORT
UTILITY
WATER & SEWER DESIGN
SITE PLAN

DESIGNED BY:	JAR
DRAWN BY:	JAR
CHECKED BY:	MRA
APPROVED BY:	MRA
DATE:	OCT, 2020
PROJECT NO:	218091
SCALE:	SEE PLAN

C101
1 OF

Agenda Item

To: Reagan Parsons, Town Manager
From: BJ Grieve, Planning Director
Subject: Kim Wade - Reappointment to Planning Board
Date: October 11, 2022

I. SUMMARY OF APPLICATION REQUEST:

The Planning Board consists of seven (7) regular members, with five (5) members residing in Town and appointed by the Town Council and two (2) members residing in the Town's extra-territorial jurisdiction and appointed by the Board of County Commissioners. Members serve a three (3) year term and are limited to two (2) successive complete terms, but may continue to serve until their successors have been appointed.

Kim Wade's first term expired on August 14, 2022 and she is eligible for reappointment for a second term, which will expire on September 12, 2025.

The Planning Division of the Community Development Department is requesting that Kim Wade be reappointed to a full three-year term on the Planning Board. Ms. Wade's request is attached to this memorandum.

II. CURRENT PLANNING BOARD ROSTER:

	<u>1st appt.</u>	<u>2nd appt.</u>	<u>Term Expires</u>
Gary Carroll (in Town)	03/01/17	03/10/20	03/10/23
Cooper Carter (in Town)	12/10/19		05/15/21
Diane Westbrook (in Town)	12/03/18		12/03/21
Benjamin Greene (ETJ)	03/12/19		03/12/22
Kim Wade (in Town)	08/14/19		08/14/22
Andy Bleggi (ETJ)	03/10/20		03/10/23

From: [kim.wade](#)
To: [BJ Grieve](#); [Cindy Williams](#)
Subject: Planning Board
Date: Thursday, August 4, 2022 7:05:21 AM

Good Morning BJ and Cindy,
As per our conversation yesterday, I am submitting this email to confirm I will serve on the Town of Southern Pines Planning Board another term.

I am honored to be a part of the team.

Respectfully,
Kim Wade

TOWN OF SOUTHERN PINES ORDINANCE #2027
AMENDING §32.031 OF THE TOWN’S CODE OF ORDINANCES RELATED TO
FEES FOR THE SOUTHERN PINES PUBLIC LIBRARY

WHEREAS, the Town desires to expand access to a free library card to all of the educational institutions within the town limits who serve children birth to age 17 as well as those individuals who own a business in the town limits; and

WHEREAS, the Town desires to eliminate fines for overdue library materials in an effort to provide equitable access to library services and resources to all patrons and to foster positive relationships between the library and the community; and

WHEREAS, the Town desires to approve other administrative adjustments to the library fee schedule; and

WHEREAS, §32.031 of the Town’s Code of Ordinances sets forth the fees that are established for the various services provided by the Southern Pines Public Library.

BE IT ORDAINED by the Town Council of the Town of Southern Pines, North Carolina, in regular session assembled on the 11th day of October, 2022, the Code of Ordinances is amended as follows:

- (1) Delete existing section §32.031 in its entirety and replace with Attachment A.
- (2) The adopted revisions to §32.031 shall be effective no later than October 14, 2022.
- (3) Patron account balances shall be adjusted to remove any outstanding fines associated with overdue materials that were incurred prior to the effective date of this ordinance.

Adopted this 11th day of October, 2022.

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of October 11, 2022 as shown in the minutes of the Town Council for that date.

ATTEST:

TOWN OF SOUTHERN PINES

Elizabeth Robertson, Town Clerk

Carol R. Haney, Mayor

APPROVED AS TO FORM:

Mac McCarley, Town Attorney

TOWN OF SOUTHERN PINES ORDINANCE #2027: ATTACHMENT A

§ 32.031 FEES.

(A) The following are exempt from payment for library cards and shall receive library cards free of charge. Valid documentation verifying personal identity and either a current home address in the corporate limits of Southern Pines, or payment of property tax to the Town of Southern Pines is required to qualify for either of the first two exempt categories:

1. Individuals who live within the town limits of Southern Pines.
2. Individuals who own property within the town limits of Southern Pines on which the individual pays property taxes.
3. Individuals who own a business located within the town limits of Southern Pines.
4. Individuals who have provided at least 20 hours of volunteer service to the library during the preceding twelve months.
5. Educational institutions with enrolled children ages birth to 17 that operate physical campuses within the town limits of Southern Pines (applies to limited access cards only).
 - a) Educational Institution is defined as any public or private preschool, elementary, or secondary school or any licensed early childcare center.

(B) The following formula determines the annual cost of a library card. Fees for both cards may be prorated for a six-month period.

1. Full Access Card: for use of full collection and services. The cost of card shall be computed annually in July by dividing the total municipal contribution to operating income by the total population, rounded to the nearest \$5.00.
2. Limited Access Card: for use of Juvenile and young adult collection. The cost of card equals one third (1/3) of the cost of a full access card, rounded to the nearest \$5.00.

(C) The following schedule of fees shall be administered by the Library Director:

<i>Description</i>	<i>Fee</i>
B&W copies or prints	\$.15 per page
Color prints	\$.25
Internet kiosk (first 15 minutes free)	\$10/hour
Full access card yearly fee- for use of full collection and services	\$60
Limited access card yearly fee- for use of juvenile and young adult collection	\$20
Lost or damaged materials	\$5 + replacement cost
Inter-library loan:	USPS postage charge for item plus any charge imposed by lending library, if applicable
Replacement of lost library card	\$1
Library Multipurpose Room Rental- Resident	Weekdays: Mon-Thu \$50 for a 3-hour block \$15/each additional hour Weekends: Friday - Sunday \$60 for a 3-hour block \$20/each additional hour
Library Multipurpose Room Rental- Non-Resident	Weekdays: Mon-Thu \$100 for a 3-hour block \$30/each additional hour Weekends: Friday - Sunday \$120 for a 3-hour block \$40/each additional hour

CURRENT		PROPOSED	
Equipment	Charge per Hour	Equipment	Charge per Hour
Pick-up truck	\$10	Pick-up truck	\$20
1 ton truck	\$35	1 ton truck	\$35
Dump truck	\$35	Dump truck	\$55
Backhoe with operator	\$75	Backhoe / mini-x	\$75
Skid steer loader with operator	\$50	Skid steer loader	\$50
Motor grader with operator	\$150	Boom Mower	\$150
Street sweeper with operator	\$150	Street Sweeper	\$150
Jet rodder with operator	\$150	Combination jet/vac truck	\$300
Tractor with attachments with operator	\$50	Tractor with attachments	\$50
Air compressor	\$15	Air compressor	\$35
Power rodder	\$15	DELETE	
Hand rodder	\$5	DELETE	
		Asphalt Recycler	\$150
		ATV/UTV	\$30
		Zero turn mower	\$25
		Aerial Lift	\$20
		Wood Chipper	\$50
Dewatering pump	\$15	Dewatering pump	\$15
Asphalt roller	\$15		\$30
Concrete mixer	\$40		\$40
Chain saw	\$10		\$15
Pipe saw	\$15	Pipe saw	\$15
Floor saw	\$25	Floor saw	\$25
Tamp	\$10	Tamp	\$20
Trench roller	\$25	Trench roller	\$65
Wet tap	\$25 per use	Wet tap	\$25 per use
		Hydrant meter - rates	Water Rates
		- Deposit	\$1,000
		- Rental	\$75 per day

CURRENT		PROPOSED	
FEE		Materials	FEE
Single blade	\$105	Single blade	replacement cost plus 20%
Double Blade	\$165	Double Blade	replacement cost plus 20%
Stop, yield and like	\$80	Stop, yield and like	replacement cost plus 20%
Handicapped parking signs	\$25	Handicapped parking signs	replacement cost plus 20%
van accessible sign	\$10	van accessible sign	replacement cost plus 20%
u - channel post	\$35	u - channel post	replacement cost plus 20%
		Round Post	replacement cost plus 20%
Decorative street sign /post	replacement cost plus \$50	Decorative street sign /post	replacement cost plus 20%
Construction Inspection		Construction Inspection	
Street Construction (includes storm drainage)	\$2.60 per linear foot, \$150 minimum	Street & Fire Lane Construction	\$2.00 per linear foot, \$150 minimum
Sidewalk construction	\$0.50 per linear foot, \$150 minimum	Sidewalk and Greenway construction	\$0.75 per linear foot, \$150 minimum
		Storm Line construction	\$1.00 per linear foot, \$150 minimum
		Curb and Gutter Construction	\$0.75 per linear foot, \$150 minimum
Water construction	\$1.00 per linear foot, \$150 minimum	Water construction	\$1.25 per linear foot, \$150 minimum
Sewer construction	\$1.00 per linear foot, \$150 minimum	Sewer construction	\$1.25 per linear foot, \$150 minimum
Unusual improvements	\$35 per hour	Unusual improvements	\$45 per hour
		Repairs	
Aspahalt cut repair up to 300 square foot	\$3	Aspahalt cut repair up to 300 square foot	\$5 per square foot
Over 300 sq ft at 1 location	Cost plus 20%	Over 300 sq ft at 1 location	Cost plus 20%
Sidewalk repair up to 100 square ft	\$5	Sidewalk repair up to 100 square ft	\$7 per square foot
Sidewalk repair over 100 sq ft	Cost plus 20%	Sidewalk repair over 100 sq ft	Cost plus 20%
Curb and gutter repair up to 50 linear ft	\$27	Curb and gutter repair up to 50 linear ft	\$29 per square foot
Curb and gutter repair over 50 linear ft	Cost plus 20%	Curb and gutter repair over 50 linear ft	Cost plus 20%



**FEBRUARY 28, 2022 TOWN COUNCIL CLOSED SESSION
IN ACCORDANCE WITH NCGS § 143-318.11(a)(6)**

MINUTES & GENERAL ACCOUNT

Upon motion by Councilman Pate, seconded by Councilmember Murphy and carried unanimously 5-0, Council retired from the work session to a closed session at 5:41 pm.

The full Council participated in the closed session (Mayor Haney, Mayor Pro-Tem Paul Murphy, and Councilmembers Clement, Pate, and Petersen), along with Town Manager Reagan Parsons, Assistant Town Manager Jessica Roth, and Town Attorney Doug Gill.

Town Manager Parsons updated Council that an offer had been made and accepted by a candidate for Principal Planner and was optimistic that offers may be made soon for the Planning & Community Development Specialist. He also shared that the police department is currently fully staffed with officers, between officers who have recently been sworn in or who are in the process.

Parsons shared that he is advancing the addition of a second Assistant Town Manager, with the intention of selecting Fire Chief Mike Cameron, and will soon present a proposed organization chart reflecting this change. There was general consensus of support from Council for this change.

Parsons shared that he anticipates the need for a sizable salary/COLA adjustment in the FY 22-23 budget, with the current local government market in North Carolina indicating increases around 5%. Fuquay Varina, who competes with Southern Pines, has recently increased starting pay for police officers to \$52,000. There was general consensus of support from Council to address an increase and the actual amount will be reviewed during the budget preparation.

Parsons shared that Town Attorney Gill has announced his intent to retire. While his retirement date is not imminent, he has requested that the Town begin the recruitment process. Parsons reminded the Council that this is a position that Council hires and he is seeking feedback on how they'd like to advance this recruitment.

There was general discussion with Gill about the key functions he performs and what type of qualifications the Town should seek in his replacement. Gill suggested that some experience in trial and appellate work would be beneficial as well as knowledge of local government.

Parsons confirmed that it is key that the attorney be accessible to both staff and Council and have some knowledge of local government, with the opportunity to gain more knowledge through CLE courses on municipal law. Parsons suggested that the Town continue to keep the attorney on retainer so that staff would not feel discouraged to contact him/her and suggested that Council consider an increase in legal fees in the FY 22-23 budget. Gill also confirmed that an increased retainer would almost surely be necessary.

There was some discussion over next steps and good leads for recruiting. There was consensus that faculty/staff from the School of Government or NCLM who are considering retirement would be good candidates; Gill was directed to reach out to potential candidates at both organizations. There was also discussion regarding a local attorney who may be another viable candidate; Pate was directed to reach out to

this person. Gill requested that Council and staff not publicize the news of his pending retirement or launch a widespread, public recruitment effort.

No action was taken during the closed session. Councilmember Pate motioned to exit closed session, which was seconded by Councilmember Clement. The vote was unanimous, 5-0, and Council exited closed session at 6:13 pm.

Respectfully Submitted,

Elizabeth Robertson, Town Clerk



**JUNE 27, 2022 TOWN COUNCIL CLOSED SESSION
IN ACCORDANCE WITH NCGS § 143-318.11(a)(6)**

MINUTES & GENERAL ACCOUNT

Upon motion by Mayor Pro-Tem Murphy, seconded by Councilmember Pate and carried unanimously 5-0, Council retired from the work session to a closed session at 4:34 pm.

The full Council participated in the closed session (Mayor Haney, Mayor Pro-Tem Paul Murphy, and Councilmembers Clement, Pate, and Petersen), along with Town Manager Reagan Parsons, Assistant Town Manager Jessica Roth, and Town Attorney Doug Gill.

Town Attorney Gill announced his intent to retire in a previous closed session on February 28, 2022. During that closed session, Council had asked Mr. Gill and Councilmember Pate to contact some potential candidates about their interest in being considered for the appointment.

Councilmember Pate shared that he had contacted a local attorney identified by Council in the February closed session. After giving some thought to the position, this candidate recently informed Councilmember Pate that he has declined to be considered further.

Mr. Gill shared that he had a conversation with Mac McCarley, who had previously served as an attorney for the City of Charlotte. He is currently working for the firm Parker Poe, with the intention of retiring in the fall. Mr. McCarley had informed Mr. Gill that he would be interested in talking with the Council about the position.

There was consensus from Council that they were interested in scheduling an interview with Mr. McCarley. Councilmember Pate agreed to contact him to discuss his current role with Parker Poe as it would relate to serving Southern Pines and to see if he would be available to meet with Council in a closed session after an upcoming meeting.

No action was taken during the closed session. Councilmember Petersen motioned to exit closed session, which was seconded by Councilmember Pate. The vote was unanimous, 5-0, and Council exited closed session at 4:55 pm.

Respectfully Submitted,

Elizabeth Robertson, Town Clerk



**AUGUST 3, 2022 TOWN COUNCIL CLOSED SESSION
IN ACCORDANCE WITH NCGS § 143-318.11(a)(6)**

MINUTES & GENERAL ACCOUNT

Upon motion by Councilmember Pate, seconded by Mayor Pro-Tem Murphy and carried unanimously 5-0, Council to a closed session following the conclusion of its work session.

The full Council participated in the closed session (Mayor Haney, Mayor Pro-Tem Paul Murphy, and Councilmembers Clement, Pate, and Petersen).

The Council interviewed Mac McCarley, an attorney and candidate for consideration as the Town's next Attorney. There was general discussion between the Council and Mr. McCarley that resulted in a mutual interest to advance Mr. McCarley's appointment.

No action was taken during the closed session. Councilmember Pate motioned to exit closed session, which was seconded by Mayor Pro-Tem Murphy. The vote was unanimous, 5-0, and Council exited closed session at 9:46 pm.

Respectfully Submitted,

Elizabeth Robertson, Town Clerk